

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORMER NEBRASKA ORDINANCE PLANT
RESTORATION ADVISORY BOARD MEETING

AUGUST 30, 2005
REVISED OCTOBER 7, 2005

Community Meeting, taken before
Dena J. Schweitzer, General Notary Public within and
for the State of Nebraska, beginning at 7:03 p.m.,
on August 30, 2005, at the Mead Community Center,
3rd Street, Mead, Nebraska.

1 (Whereupon, the following proceedings were
2 had, to-wit:)

3 MS. TILLMAN: How is this? Can you
4 hear me? That's better. My voice doesn't carry
5 very well. Let me know if that will suffice.

6 Welcome. While everybody else is
7 filtering in, since it's a little after 7, let's get
8 started so we can try and keep on time. Come on in
9 and sit down. There is handouts at the tables. If
10 you, do not sit at the table, pick up three things
11 on the sideline. One of them is the slides that we
12 are going to show you. Another is a status update
13 sheet, and then another is a site management plan.

14 I thought we would start out with the
15 introductions. I should be somewhat of a familiar
16 face. My name is Natalae Tillman, and I'm with the
17 Corps Engineers in Kansas City. I'm the chief of
18 the DERA Section, which is the group in Kansas City
19 that has project managers that manage FUDs sites, so I
20 have been at the last three or four of these
21 meetings. And I was previously involved as the site
22 as an OU1 which was soils cleanup project manager.

23 I'm back, and I'm actually glad to be
24 back. I had a lot of history with this site and I
25 have a lot invested and spent a lot of years on this

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 project.

2 I will do some more introductions in a
3 minute. I wanted that to talk briefly about the
4 agenda tonight. The agenda is the first slide in
5 your handout, and we will do some introductions and
6 cover some administrative items. After that we will
7 have our Programs and Project Management Division Chief
8 address you. He was here last time and it was Steve
9 Iverson. And he will address a couple of issues
10 with you, and we will move in with the technical
11 part of that.

12 For introductions, I have to announce that
13 we have lost our previous PM, Bill McFarland. He
14 had some health-related issues that caused him to ask to be
15 removed from the project. He need to focus on getting
16 healthy again so we have a change in the PM again. But we have

17 somebody to who's has been involved in the project before, having
18 some real knowledge of having been involved in the project
19 His name is Garth Anderson.

20 If you remember 2003 way back when Garth
21 has been involved on and off with the project
22 managing the overall project. Since then, he left
23 us for a while. He has come back. He has a lot of
24 site knowledge, so he won't miss much of a beat in taking
25 over. So Garth's name will appear on all future

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 correspondence, but I will be assisting him to do
2 the public relations in this transition period.

3 I would like to offer to opportunity to
4 any RAB members, but if you would like to stand up
5 and give your name. If you would like to sit at the
6 table you can do. Do we have anybody besides
7 Melissa Konecky?

8 And we Major Rich Henning from the
9 Nebraska Army National Guard. He's new within the
10 past four or five months to his job here. And
11 Larry Engle is with us. Anybody else who would like
12 any type of introduction? We have USEPA, Scott
13 Marcus. We do have the names up here. Would you
14 like me to read them? We had them on the slides
15 last time. We have citizens and then we have
16 University of Nebraska, Saunders County, Lincoln
17 Water System, Nebraska Health and Human Services,
18 U.S. Army Reserve, and none of them are here.

19 The community members, our last record of
20 them Doug Drewliner, Ross Rasmussen, Catherine Saniyuk, Leroy
21 Nelson, Michael Mowrey, Greg Moline, Robert Solles.
22 That's our last record of the RAB members.

23 As far as the agenda goes, we will move on
24 to the administrative items. I think we will be
25 ahead of schedule and I think we will be able to

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 allow more time overall for the question-and-answer
2 period.

3 We made some assumptions coming in about
4 what you would like to talk about here. We heard
5 you talk about the questions and answers and we
6 worked on the questions and answers. We developed
7 records. They are not legally called transcriptions
8 because they weren't done in such fashion, but we
9 developed records at the last three meetings. We
10 took questions off of those at the volumes of the
11 information that you picked up over here. We have
12 not answered those questions yet. We would like you
13 to take a look at those and see. For one thing, we
14 didn't get enough time to answer them all, so some
15 of the answers from the RAB meetings didn't suffice
16 because there is a lot of inaudible stuff in the RAB
17 meetings. So we would like to look at that. If you
18 would like to add to that, feel free.

19 We will do the same thing that we have
20 done before. We will keep track of the questions
21 that come up during the RAB that are not answered,
22 we will get those out to you within a couple of
23 weeks. We will get them up by the 15th of
24 September. They will be up on the board. Please
25 verify for us that we captured your question

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 accurately.

2 We will move to the status update. I will
3 try to give you a quick overview of what happened.
4 We heard what you wanted to focus on a lot. We've
5 heard you wanted the questions answered. We've
6 heard that you wanted to hear about the site
7 management plan. We've heard that you wanted to
8 hear about cost. Those are the things that we're
9 ready to address in some way, shape or form, and
10 then we go into the major issue. It's going to take a
11 little bit of time to present what we're going to do
12 in terms of the overall site management plans. So
13 Jason Leibbert is our project engineer, He is going
14 to give you that presentation, and then we will just
15 open it up after that for questions. If that's a
16 fair agenda, we will do that.

17 Pointing you to the handouts -- I'll just
18 stay with that for now. The administrative items,
19 perhaps it goes without saying, there is some ground
20 rules we would like to accommodate. Part of this is
21 for the transcriptionist that we have tonight to
22 capture what's said in detail. It will be more defensible
23 and clear cut. A lot of portions of the transcripts are
24 inaudible, so we have a videotape recorder and a
25 transcriptionist that are going to take the actual

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 statements that are made here.

2 So having said that, what we would like
3 you to do is when you ask a question is to stand up
4 and state your name so that they can capture your
5 name as they get your question, that would be great,
6 so if you could do that loud and clear. We would
7 like to ask you to hold your questions to the Q and
8 A. We won't be real strict on that, but we would
9 like to try and get through the presentations so
10 that we can address the questions later. It will be
11 my goal to help everybody get their question in if
12 they have a question.

13 The cameras are here. We've got two
14 cameras, I believe -- no, we have one. We will get
15 copies of the transcript out on the web site as soon
16 as we have it available. We will let you know. If
17 you did not know, there is a sheet at the end of
18 each table. Please feel free to sign up on that if
19 you want to be on our mailing list. We are starting
20 from scratch. We have a web site up and running.
21 We will take questions on the web site. We will
22 have information on the web site. So if you would
23 like us to e-mail, let us know, even if you've given
24 us your name and address before.

25 We've had a few addresses that didn't come

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 through, so we would like to start from scratch. We
2 will not release that information. We will keep
3 that closed.

4 Okay. Mailing list, I touched upon that.
5 We won't share it. We're going to do approximate
6 quarterly updates via e-mail or mailing. We will
7 e-mail you and tell you if there is something new on
8 the web site.

9 Okay. Next RAB meeting we are proposing
10 it for the 1st of December. Save that time. It's 7
11 to 9 right here on December 1st. The Colonel or
12 Commander as you all know intended to come out this
13 past week. He was asked not to come. He did come.
14 He did a site tour, but we did not hold our session
15 with him. He may be here at the next RAB meeting.
16 I coordinated a little bit with the schedule, but I
17 need to verify that he could be available on that
18 date that he may be available.

19 The agenda items for the next one we will
20 propose a couple of things. The June quarterly
21 sample results, we don't have all of those processed
22 yet, but we propose that we give those to you at the
23 next RAB. And Saunders County model review, we did
24 get information about Saunders County model review
25 of MUD and our model. We will be ready to speak to

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 that next time.

2 We have not had a chance to look at those
3 comments. If you would like to give us your ideas
4 for topics for the RABs, please feel free to do
5 that.

6 There are pieces of paper over there that
7 you can put your desires for presentations on. I
8 think that's enough administrative items.

9 Steve, would you like to say a few words?

10 MR. IVERSON: Sure. (inaudible) Hi,
11 Ray. I've given Ray some trouble here. He just
12 retired from the Corps Engineers in Kansas City just
13 about two months ago, and he said he's moving up to
14 Mead and I said I will see you soon. It's good to be
15 here.

16 I'm Steve Iverson. I'm the deputy for
17 project management. I report to Colonel Rossie. As
18 Natalae said, he was up here trying to get a lay of
19 the land and he was not able to make it here
20 tonight. He is currently over in St. Louis, so
21 again, he was not able to make it.

22 Really two messages. One as I said the
23 last time, I'm here to listen and try to understand
24 your needs and concerns. We heard a lot of that
25 last time. Okay.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 The second message really for me is that
2 we've been working hard. We have command emphasis
3 on this project at the district to try to respond to
4 the many, many needs and concerns that I have heard
5 and the team has heard. So hopefully what you will
6 hear tonight is really a status report on what has
7 happened since the last restoration advisory board meeting.
8 And then, again, we will open this meeting up for
9 your comments and take it from there.

10 What I would ask personally of everyone is
11 to try to be patient. We're not going to have the
12 answers to every single question. We are not going
13 to have every single one of your concerns addressed
14 here tonight. But I can assure you that we're
15 working very hard to get these things done, so I
16 look forward to a positive meeting again, and I will
17 turn this back over to Natalae.

18 MS. TILLMAN: Okay. I will try to be
19 quick.

20 MS. WAGEMAN: Hi, it's Linda Wageman.
21 Can I have Katie Sadegwick's, S-A-D-E-G-W-I-C-K,
22 name card. I want to settle this once and for all.
23 She has not been on the RAB board for about two
24 years. And despite my continuous request to get her
25 named released and the proper name placed on here,

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 it hasn't been done, so I am going to do it.

2 MS. TILLMAN: Okay. We will mention
3 that this is the last list that we had. We
4 apologize if it's not accurate. For a while there
5 we didn't need to have a real formal RAB so we
6 didn't keep up with it as maybe it could have been.

7 Okay. I'm going to direct your attention
8 now to the status sheet. It's a one-page document.
9 Since we last met, we have developed a project web
10 site. It is now up and running. It will eventually
11 be interactive for putting your questions in and
12 getting answers, or letting you -- making aware that
13 there are updates to it, so feel free to check it
14 out.

15 For your information, the documents from
16 the last three RABs have been posted out there. The
17 questions have been posted out there. You can go
18 look at them there in addition to what you have
19 here. They are pretty lengthy. If you look at the
20 status sheet, it talks about the web site. Those
21 are posted on the web site as of today. I was
22 cranking on them last night. So in the future, you
23 will be able to submit questions there, but please
24 check it out. It's not fully populated yet. There
25 is still fact sheets we want to put in there but we've

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 got it up and running and we wanted to be putting in
2 some of the more relevant information. When we get
3 the sample results we will put the June samples up
4 there to see.

5 Okay. We talked about the transcripts.
6 Those are in drafts, so we are going back and
7 checking them. We are in the middle of doing that.
8 And that along with the questions you have so please
9 feel free to let us know if you have any concerns.

10 We did meet with EPA/NDEQ on August 22nd another
11 time. We talked about management plans and we will
12 talk about some of the results of that. We had the
13 commanders visit scheduled and cancelled, and that
14 was last Tuesday. Another note that isn't on there
15 and I thought I would add this, in May, June and
16 July we have treated 270 million gallons of water.
17 This year we have removed 44.7 pounds of TCE and
18 10.3 pounds of RDX. And in totals since 2002, we
19 have removed 105.6 pounds of TCE and 58.1 pounds of
20 RDX, those are just some stats.

21 We did our sampling in June. We sampled
22 water supply wells, residential wells, surface water
23 samples in Ashland and Lincoln. We have asked
24 Ashland and Lincoln, I don't know if we got an
25 answer. They were favorable, but we would like them

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 to tell us it's okay to relay that information.

2 The residential water supply wells we sent letters out
3 The rest of the data is going through the QC process. It should be
4 done fairly shortly. It will be posted on the web site as, I
5 said earlier by mid to late September. Our next
6 sampling events start in September. The buffer zone
7 residential wells will be sampled in late September
8 or early October.

9 With regard to MUD -- well, part of
10 another investigation with what will serve our
11 knowledge with regard to MUD and what's going to
12 happen in this plume, we will start, we submitted an
13 investigation to EPA/NDEQ in July. We expect
14 comments from the regulators at any time.

15 Do I need to go back over that?

16 MR. RANDAZZO: Are you going to do
17 surface water testing also?

18 MS. TILLMAN: Yes.

19 MR. RANDAZZO: Is it the same as you
20 did before, the exact same sites and locations for
21 the surface water? (inaudible)

22 MS. MOORER: We can't hear you.

23 MS. TILLMAN: He's going to look it
24 up and he can get back to you with the answer. He
25 can look it up while we are talking. When he is

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 ready to give me the answer, flag me. Okay. MUD
2 field work is scheduled to start in October. That
3 will lead to understanding a little bit more about
4 what's going on the east side. The focus is the
5 eastern boundary, and it is in the Monitoring Well
6 85 area. The next steps in that process will be
7 spring sampling of next year, and then

8 monitoring well installation so that -- Jason will
9 talk about it a little more -- it's a basic
10 understanding of what the baseline of the east side
11 will be before MUD starts pumping.

12 Load Line 1 actions, because that has been
13 a focus on our efforts recently. We completed a
14 number of things today on getting that treatment
15 system out there up and running. We have the access
16 roads in place. We started the well drilling. We have not totally
17 installed the wells. The treatment building foundation has been
18 started and the remaining work will be installing
19 extraction wells, laying the pipeline, installing
20 the treatment unit equipment and then the testing
21 and begin normal operations. We had said before it
22 will be probably close to the normal operations by
23 the end of this calendar year there probably will be
24 treatment by the end of this calendar year. We're
25 probably about a month behind on that. Okay. Any

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 questions on the current status?

2 Larry Angle: I have a question
3 on the MW85 area. What are your plans there?

4 MS. TILLMAN: We're sampling more
5 areas around that well, and I will give it to Jason
6 Leibbert to answer in more detail.

7 MR. LEIBBERT: Around NW85, that's
8 the investigation work plan and that was submitted
9 in July. That includes a more geoprobe Investigation
10 in and around the MW85, and it also includes
11 geoprobe sampling along the eastern side, and I will
12 go over that when I go up to the map and talk about
13 that. But the MW85 results, we have one result in
14 December. That was unusual. We sampled it again in
15 March. It was below action level. Every other well
16 that was in the MW85 area was below action level.
17 The results from the June sampling event have come
18 out of the QC process yet. My chemist and I looked into
19 the database to see what those results were and
20 those were below the action level. They're not
21 published anywhere yet, so we will continue to do
22 that sampling to see if what that unusual result
23 repeats itself and do an investigation to try to
24 confirm what is going on.

25 UNIDENTIFIED MALE: I'm just wanting
THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 to know about this area. Is that buffer zone going
2 to be extended or at what mile of buffer zone as it
3 was?

4 MS. TILLMAN: I can answer that. We
5 have had process in place -- a decision process in
6 place where we would sample beyond the one-mile
7 buffer zone. What we're going to do is look at the
8 levels that we get in the wells. We haven't gotten
9 this through the regulators yet, but our proposal is
10 when we see something coming up in the wells at a
11 certain level, we'll start sampling that regularly.

12 As you all know, that residential well
13 sampling is annually. We'll increase that sampling
14 frequency and we'll increase adjacent wells and add
15 them to the buffer.

16 UNIDENTIFIED FEMALE: How much will
17 you increase?

18 MS. TILLMAN: What will we increase?

19 UNIDENTIFIED FEMALE: Yeah. What's
20 the frequency in which you will increase?

21 MS. TILLMAN: Quarterly.

22 UNIDENTIFIED FEMALE: All?

23 MS. TILLMAN: That well that had the
24 result that came up, that was below the national
25 level but -- we were proposing half of the action

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 level, which at the point we would sample that well
2 from then on quarterly and we would increase for the
3 adjacent wells and put them into the buffer zone,
4 hence buffer zone instead of 1 mile buffer zone.
5 The buffer zone can then be increased.

6 MS. MOORER: So which wells are you
7 talking about now that are going to be sampled
8 quarterly in reference to what you have just told
9 us?

10 MR. LEIBBERT: The 1-mile buffer zone
11 is still the 1-mile buffer zone. The frequency for
12 those residential wells in the 1-mile buffer zone is
13 still on an annual basis. But what we're talking
14 about here is if we see results in any of those
15 residential wells in that 1-mile buffer zone, we
16 would change the sample frequency to do it more
17 often. And depending on where those results are
18 located, we may expand the 1-mile buffer zone in one
19 direction or two directions. It kind of depends on
20 what's found, which is basically the same as what
21 we're doing right now. If we see an unusual result,
22 the first thing you do is immediately sample it
23 again to see if it's repeatable. And we sample
24 everything around it to see if it's somewhere else
25 or is it moving, and we have to do that at a higher

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 frequency. And, again, with the buffer zone, if we
2 were to see an unusual result, we would change our
3 sampling frequency, we would adjust the number of
4 wells and the locations of those wells.

5 MS. THOLL: The 1 mile buffer zone
6 right now is not going to be expanded. What Jason
7 is speaking about is if the result happens. So I
8 believe that answers your question Lynn, does it,
9 Lynn?

10 MS. MOORER: I had just one
11 clarifying follow up. This 1-mile buffer zone
12 you're talking about, water supply wells in this
13 annual frequency or are you talking about any other
14 types of wells within that?

15 MS. TILLMAN: We're talking about
16 water supply wells, residential wells.

17 MS. MOORER: So these are not be
18 tested again for another year?

19 MS. TILLMAN: Right. The ones that
20 are below the level, yes, they are tested on an
21 annual basis. If the levels of contamination seen
22 to be at half of the current action level, we would
23 start sampling them quarterly, and we will also look
24 at the adjacent wells and sample those.

25 MS. MOORER: So it would be fair to

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 say that the Corps response to NDEQ's request that
2 you expand the 1-mile buffer is essentially no, you
3 have not agreed to that?

4 MS. TILLMAN: We have not agreed to
5 that unilaterally to 2 miles. No, we have not, or
6 3 miles. We have agreed to look at it from the
7 basis of what we see in the wells and will expand
8 from there.

9 I think we had a question to the other
10 question real quick.

11 MR. BIGELOW: To answer your
12 question, the surface waters that are indicated on
13 the figure back here will be the same ones that we
14 will sample in September, and that's to get some of
15 the seasonal data at different water levels.

16 MR. RANDAZZO: So it would be the
17 same surface water tests?

18 MR. BIGELOW: That's correct.

19 MR. RANDAZZO: There has been a
20 request to do Ski Lake, which we did have a
21 drinking water well, and I ask that that be added.

22 MS. PIERCY: Janet Piercy. Yes, we
23 have little kids swimming in our lake and our
24 grandchildren, and I really request that our lake,
25 which is open water, be tested, and it's within the

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 1-mile buffer zone.

2 MS. TILLMAN: Can we take that down
3 on the board and give you an answer to that on the
4 15th?

5 MR. RANDAZZO: The question I had
6 was, Scott, help me out with this. When they did a
7 surface water test before there was an anomaly and
8 it was up in Clear Creek. And I don't know where
9 you took the sample from, but it was up here and I
10 asked you that question that day because the results
11 of the water samples were unclear or hard for me to
12 read as a layperson. And you said -- do you
13 remember what I'm talking about?

14 MR. MARQUES: No, go ahead.

15 MR. RANDAZZO: And you said, Well it
16 could mean something, it doesn't necessarily mean
17 anything. This is the residential water sample that
18 you did where it was that UJ. So we had a UJ hit
19 well outside the 1-mile boundary and well outside the
20 current map of the plume which is very concerning to
21 me. This was in the sample that you guys did, and I
22 guess my question is quite simply I want to make
23 sure that's getting sampled again because that is
24 way outside your boundaries and it was sampled and
25 had an anomaly discovered.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 MS. TILLMAN: Do you have an answer

2 to that or do you need to take that down?

3 MR. MARQUES: I think you might be
4 talking about Methylene Chloride detections in surface water, and
5 there were a number of them and I think you were speaking -- I'm
6 not positive, there were three or four methylene chloride
7 detections at less than five parts per billion in
8 surface water and I don't know how far back it was.
9 They were J-coded data. So methylene chloride is
10 one of the seven COCs. So I think those are being
11 relooked at, and I think maybe more importantly is
12 working and trying to find out why would there be
13 stuff showing up in the surface water and to look at
14 the ground water and see the discharge in the
15 surface water which is what the proposed
16 investigation will help evaluate.

MR. RANDAZZO: I think it should be sampled again

17 MS. WAGEMAN: I think it's important
18 to note that regarding this 1-mile buffer this was
19 something that was pulled out of the air to try and
20 get a hold of and get control of some extended
21 residential well water testing. I don't know where,
22 I don't know how and I don't know by whom all of the
23 sudden this 1-mile buffer zone became law. But I
24 really believe that it would be in the best interest
25 of the regulators not to be so hardcore about this

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 1-mile buffer because it will bite you in the
2 backside. I guarantee it. It is not in your best
3 interest.

4 Instead of looking at the 1-mile buffer,
5 we need to look at the homes in the area because
6 we're not a zone, we're people, and I don't want to
7 be treated as if I'm in a zone. I'm a person, and I
8 remember an e-mail from the Corp, it was blazing and
9 blatantly proud saying that because my farm because
10 my main was half a mile away from the buffer zone,
11 ha, ha, ha, this is not going to get tested, and
12 that is a very poor attitude to take.

13 Also, Jason, you were -- Lynne had asked
14 you the questions regarding the residential wells
15 and trying to get some more specifics on who was
16 going to be tested.

17 For instance, Klausens, they live up
18 north. They came up with detect. Anderson down
19 south, he also came up detect, and there were other
20 homes in that area outside of your 1-mile buffer
21 that weren't tested. And I want to make sure that
22 A, Klausen is tested on a regular basis which needs
23 to be a question that is typed into the computer,
24 please.

25 And secondly, that Anderson is tested on a

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 continual basis along with that entire cluster of
2 homes whether they are inside that 1-mile boundary
3 or outside because we've got people that are coming
4 to us saying please test my house. I've got a
5 nine-month old baby and I don't know what to do, so
6 we can't be so hardcore about this 1-mile buffer.
7 And the other homes within that cluster surrounding
8 Anderson is what you're going to have to add to
9 that. Make sure it reads the way we like it to

10 because we don't want you to look into it. We want
11 you to do. And it these are questions from our
12 side.

13 It will be easier to type anyway.

14 MS. TILLMAN: That's fair. Our
15 intent with a buffer zone and with the process that
16 we are going to put in place hopefully with
17 regulatory approval. And our intent by that and a new
18 process is we are going to go through is to allow
19 for additional sampling to occur when we see a
20 continuing problem. We won't keep with a quote on
21 quote 1-mile buffer zone.

22 MS. WAGEMAN: Do you consider a
23 detect in the Anderson's a problem. It's a detect.
24 It's not above action levels, but it is firmly a
25 detect, so I think what we need to do is define what

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 makes you decide what detect or concern is. Because
2 as far as I'm concerned, if Klausen got
3 detected, my expectation is that it's going to be
4 tested regularly and same with the Andersons.

5 MS. TILLMAN: And we have talked
6 about that process and what it needs to be. We will
7 propose that and add that to the agenda for the next
8 RAB to talk specifically about that process.

9 MR. RANDAZZO: Some might understand
10 that if there is a detect in residential wells, you
11 are not expanding the 1-mile buffer zone beyond that
12 well?

13 MS. TILLMAN: Yes, we will look at
14 the samples that we get. We will set an action
15 level in those areas within the zone. When we see
16 that level hit a certain point, let's say it's 2.5
17 for TCE, we will sample that well quarterly then
18 instead of annually and we will take the adjacent
19 wells and sample them and add them to the buffer
20 wells.

21 MS. WAGEMAN: So you will sample the
22 action levels that are quote, lower than federal
23 action levels?

24 MS. TILLMAN: Yes.

25 MS. WAGEMAN: Do you know by what

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 percentage?

2 MS. TILLMAN: We talked about this at
3 length a couple of weeks ago, and what made sense
4 with analytical methods which was half of the action
5 levels. So for TCE we are proposing that at 2.5 we
6 will sample individual's wells quarterly.

7 MS. WAGEMAN: What happens if there
8 are other chemicals that you guys have been tested
9 for but are not specifically listed as quote, COC,
10 things like HMX is not specifically a COC, although
11 we do know what it's used for. And so if someone
12 has a concentration of HMX in their well, are you
13 going to test? Are you going to put them on the
14 schedule or is it only the COCs where you're
15 going --

16 MS. TILLMAN: Were going to use the
17 seven COCs based on which to start that. We will
18 report the other results that we get to the
19 regulators.

20 MS. WAGEMAN: So then who would be
21 responsible for cleaning the HMX?

22 MS. TILLMAN: Probably nobody -

23 MR. LEIBBERT: If it shows up above some defined action
level.

24 MS. WAGEMAN: You have been testing for HMX since 1992?

25 MR. LEIBBERT: Yes. We do all of the explosives.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 It's not one of seven COCs. But no one else uses HMX so it belongs to DOD.

2 MS. TILLMAN: It's not one of the
3 seven COCs but nobody else would have used HMX it would be related to the
4 site. It would be related to the site that Scott was introducing.

5 We will give you your test results as we
6 always do as well even beyond the COCs.

7 MR. RANDAZZO: I'm sorry to be asking
8 the same questions, but you haven't answered me, so
9 I'm going to make it real clear to you. Okay. So,
10 we have problems here at MW85, correct?

11 MR. LEIBBERT: No, not exactly.

12 MR. RANDAZZO: Well, let's just say
13 for the sake of argument that we had some problems
14 at MW85. All right. My question is if there is a
15 detect in a residential well or in a monitoring well
16 or whatever, what I think this is very reasonable is
17 that you're saying that you guys are going to
18 test -- let's say that 106 has a detect, you're
19 saying, Oh, great. We're going to sample the wells
20 around 106. I'm saying if 106 has a detect, then
21 your 1-mile buffer just expanded. You never
22 answered that question. So what I'm saying is it's
23 really simple to me that the 1-mile buffer should
24 expand with the detect even if it's below the action
25 level. It's still a detect. It's still TCE, but

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 it's still a detect in 106. Detect is detect. Your
2 buffer zone should move in 1 mile in those
3 directions.

4 MR. LEIBBERT: So 106 has a detect of
5 TCE. What we're saying is if it's a detect less
6 than 2.5, less than 50 percent of the action level,
7 we're not going to change anything because a detect
8 above 50 percent of the action level will put 106 on
9 a higher frequency. It will put wells surrounding
10 106 on a higher frequency. And maybe, depending on
11 the results, 106 or 63 or 81 maybe will go outside
12 the 1-mile buffer zone. It kind of depends on who
13 is there, how many wells, how many wells do we have
14 between 106 and the next most likely receptor. But
15 what we are saying is that this is all adjustable
16 and all flexible. If we get a detect above half the
17 action level, we are going to adjust the whole
18 sampling program for this vicinity. We will do 106
19 again. We will do everybody around 106 again.
20 We'll do 106 more than once a year. We will do
21 everybody around 106 more than once a year, and
22 maybe we will go beyond the 1-mile buffer zone in
23 that direction depending on how many likely
24 receptors might be over there.

25 MR. RANDAZZO: I'm formally requesting
THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 that the 1-mile buffer zone be expanded
2 once there is a detection. That's very important.

3 MS. WAGEMAN: Steve, using Paul's
4 example, and we're looking at Well No. 106, and
5 we've got a detect of 1.7 of TCE. My question to
6 you is, it's very simple, where is the plume
7 boundary? The plume boundary is not at 106. The
8 plume boundary is over here. Okay. And part of the
9 problem that we had had from Load Line 1 down on the
10 southern edge of the plume and over here since this
11 whole thing started is that we're chasing chemicals.
12 We're spending so much time dancing around the may
13 pole that we're not being proactive here.

14 Now, we've got MUD that's going to be
15 drilling some wells down here, and regardless of
16 what happens, you guys are responsible for
17 containment. Containment is right here. It's not
18 here. And if there is a detect of any kind of any
19 level, we've got a problem. And it needs to be
20 looked at as such. Paul's request needs to stand as
21 is. Extend the 1-mile buffer because how are you
22 going to know where it ends if you don't expand your
23 parameters a mile. You can work in work if you need
24 to, but you will have a touch point and you will
25 know where it stops.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 Okay. I do not agree with you. I think
2 your philosophy is old school, and for this plume
3 thing, it could be potentially dangerous.

4 MS. TILLMAN: Okay. What we will do
5 is we will come next time to you with a presentation
6 on this aspect of what we will do out there in the
7 future. We will meet with the regulators and be
8 able to come to something (inaudible). I'm sure
9 Scott remembered all of our conversations.

10 MS. WAGEMAN: What is Scott's opinion
11 on that?

12 MR. MARQUES: On what?

13 MS. WAGEMAN: On using the example on
14 Well 108, would you find it to be unreasonable or
15 proactive as opposed to reactive?

16 MR. MARQUES: What we requested, What we
17 suggested was that in their detections, say RDX and TCE, that not
18 to focus on the sampling but to provide water at
19 that point. That's not what the law requires. So
20 that will be the opinions that will be coming
21 together talking about this proposal.

22 MS. MOORER: They haven't yet agreed
23 to provide any water to anybody who doest strictly
24 meet the ROD criteria, correct?

25 MR. MARQUES: Correct.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 MS. MOORER: So all the requests you
2 understand they said no to every last one of them
3 and continue to say no to EPA's request for
4 additional more frequent sampling for the monitoring
5 wells themselves, and we know that EPA wants to be
6 proactive and perhaps clean up this plume. And if
7 the objective is to get this monster under control,
8 maybe we need when we have a detect to extend it
9 out, work back and know exactly what levels we have
10 problems?

11 MR. MARQUES: There is a couple of
12 ways to look at this. If we have detects outside of
13 the bounds of the plume -- this line is the
14 regulatory which is what the ROD requires, so it's
15 two and five. So there is going to be something
16 outside of that. You can a 1 attached outside of
17 that line and you might not see it and you can get
18 all kind of fluctuations because the levels are so
19 low. I think equally important to the notion of
20 whether you expand the buffer zone or not, I think
21 the first priority has got to be protecting water
22 supplies, and the way you do that is at the point.

23 The second way to protect that is to have
24 a remediation system in place that's working
25 properly so that those situations don't occur and I

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 think that's the second key to this effort that if
2 you start seeing things outside of the line of
3 containment that you understand why. And that's not
4 to say that you have to have above action level
5 criteria down there. Like 85B we have ten parts per
6 billion RDX two rounds ago. And then the last round
7 it was 1.5 RDX I think which is safe, but it's over
8 here.

9 So the next major sampling effort in --
10 and you haven't seen this, we have reviewed it but
11 there are lines of rows of sampling of points of
12 ground water across here, rows of sampling points of
13 ground water across here and here. (inaudible) And
14 so the issue is not to necessarily sample it, but to
15 sample it so that you can fix the problem, if you
16 have 1.5 here and something is not understood here.
17 So there is two aspects, one is the sampling and
18 protecting water supplies, the second aspect is solving the problem
19 with a remediation system.

20 MS. WAGEMAN: Is TCE found in nature?

21 MR. MARQUES: Not to my knowledge.

22 MS. WAGEMAN: So TCE would not
23 naturally form in someone's residential well. I'm
24 not disagreeing with you, Scott. I think you've got
25 a nice little idea going on there, but it's not

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 enough and that's what I'm telling you. If you have
2 a detect of TCE outside that plume boundary you guys
3 are so high and mighty on your plume boundaries, so
4 I'm going to hold you to your plume boundaries until
5 you decide to change them. If you have a detect
6 outside those plume boundaries, then that's not the
7 plum boundary. Now, whoever decides that, I don't
8 care.

9 Okay. But what I'm telling you is that if
10 you have a 1.7 TCE in residential well 106, somebody
11 sure as hell better be testing all over that place
12 inside, outside, all around within a radius to find
13 out where there is no longer TCE. And immediately
14 after that's a detect, not wait until another
15 sampling event to visit because once again, the
16 conditions can change. We need to be able to jump on
17 that disaster recovery as soon as we see an issue that's
18 outside of the norm to try to address. That's what
19 I'm saying.

20 MS. TILLMAN: I think in our
21 presentation we will address some of that for you.
22 Will it be okay to move on and let you ask your
23 questions then?

24 MS. MOORER: Is the plan that you're
25 going to talk about now, are you going to talk about

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 monitoring well sampling?

2 MS. TILLMAN: That's part of the GMP
3 process.

4 MS. MOORER: Are you going to be
5 talking about monitoring well sampling?

6 MS. TILLMAN: Yes.

7 MS. MOORER: The next segment of your
8 meeting?

9 MS. TILLMAN: Yes, it's all part of
10 the overall plan.

11 MS. MOORER: All right. Thank you.

12 MS. TILLMAN: Let's turn to Jason
13 Leibbert to do the presentation.

14 MR. LEIBBERT: So the other part of
15 the presentation tonight that we wanted to spend
16 most of the time is the overall site management
17 plan, and you guys know it's a big site. You know
18 it's a complicated site. You know the remedy is not
19 straight forward, so that's understood. I can say
20 that we've talked about those sorts of things in the
21 past in November and February RAB meetings. We had
22 slides about what we would be doing at this site
23 this next year in 2006 and beyond, but we didn't
24 call it the site management plan, we called it
25 near-term activities and long-term activities and

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 things that are currently scheduled and had
2 scheduled for the future, so we haven't done a good
3 job of articulating our site management plan now and
4 into the future what are we going to do with this
5 site. And so that's something we're working on with
6 the regulators right now.

7 We're working with a pen and paper to lay
8 all those things out. Before we move on to Step B
9 we have to finish Step A. So we're going to put
10 those steps in order between us, the regulators, and
11 then tonight we are going to get some feedback from
12 you and then we're going to look at where those
13 things can be scheduled. Can we do this in the year
14 2006 or does it need to wait until 2007, and then we
15 can put cost estimates to that so we can put budget
16 numbers together for future budgets or try to
17 predict how much funding we're going to need in the
18 year 2010. So that's what we're working on right
19 now with the regulators. It's kind of a draft.
20 It's in progress right now. We've met with the
21 regulators. We're going to meet with them again
22 either in September or October.

23 But what I wanted to show everyone tonight
24 right now this is what we have on paper for the site
25 management plan. These are the major categories of

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 work for the site management plan, and what we're
2 trying to do is all the different pieces of work.
3 All the different things we need to do with this
4 site should fall into one of those major categories
5 and we'll talk a little bit about them tonight, but
6 this is what we have right now. These are the
7 things that we're going to be doing at this site
8 between now and 2010 is what we're using as our
9 planning number right now, and then on the next
10 slide this is what -- these are the issues that we
11 think we hear from the community again and again
12 that you're not doing enough sampling on the southern
13 side and on the eastern side, there is not enough
14 monitoring wells on the southern side and the
15 eastern side, that you're not describing your plans
16 or your schedules or your budgets very clearly. So
17 these are the things that we need to do a better job
18 of. That's what we want to try to do tonight is
19 take that first step, and then again take pen to
20 paper and lay these things out between us and the
21 regulators.

22 And then in December when we come back to
23 the next RAB we can show you what we've got and it
24 will have the schedules and cost estimates for
25 future funding requests and how much money will be

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 spent in the year 2008, 2009, 2010, so that's he our
2 goal with this site management plan.

3 So some of the major concerns about not
4 enough well sampling on the south side. You know you
5 don't have enough wells to show that you have a
6 plume contained over here on the eastern side. You
7 don't have enough wells to show what the plume
8 boundary is or you don't know what's going to happen
9 when that starts. Those are becoming are No. 1
10 priority.

11 For the year 2005 our No. 1 priority was
12 down here in Load Line 1. This is an area where you
13 were clearly not in compliance with the ROD. No
14 containment down here in Load Line 1. So this was
15 our priority in 2005. In 2005 this is where all our
16 money went basically was down here. Now that this
17 is underway and it will be finished in the beginning
18 of 2006 we can shift our focus over here and this is
19 where we're going.

20 What I can say tonight is the year 2005 we
21 put in special requests for additional funding up to
22 our chain of command, up to headquarters, for
23 more money that we could spend for more monitoring
24 wells to the south and to the east and we were
25 successful in getting that. Those are funds that we

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 got the fourth quarter of this fiscal year and we
2 are putting those funds on contract right now. In
3 round numbers, that is about a million dollars, and
4 in round numbers that equates to about close to a
5 hundred new monitoring wells that can go here and
6 here.

7 So what we will do this year you talked
8 about it in the status update, the first step is to
9 do some geoprobe investigation work down here in
10 MW85 like Scott described, do some lines of sampling

11 here, try to figure out what's go on in MW85. The
12 other part of that investigation work plan is over
13 here on the eastern side we're going to do rows of
14 sampling along here and then a little ways up around
15 the elbow here to confirm where this plume boundary
16 is and where do we need additional permanent
17 monitoring wells. So we will do that this year, we
18 will get the results, we will review the results
19 with the regulators over the winter time. I don't
20 know if we will have the results by the December
21 RAB. They will go on the web site. And then the
22 next step in 2006 is to install those permanent
23 monitoring wells.

24 Again, we know that we have some gaps down
25 here that need to be filled in so we will do that.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 And we know that we have a need for more monitoring
2 wells along the eastern side here and the exact
3 number and exact location is something we will be
4 working on with the regulators this winter so that
5 when the weather turns nice next year, springtime
6 and summertime, we can go in the field and install
7 those wells.

8 So if we put those wells in during the
9 year 2006 on the eastern side, what that means is
10 that we can sample those wells all during the year
11 2007, and then in 2008 when the MUD operations go
12 online, we will have a years worth of data showing
13 where the contamination is or isn't and we will be
14 able to monitor that and watch for impacts from MUD.

15 MS. WAGEMAN: Knowing where the MUD
16 well field is going to be and knowing where your
17 plume is, I think what you're doing as far as
18 pulling monitoring wells in the locations and doing
19 the testings, I think that's great, but how does the
20 Corps plan to establish their baseline for the
21 northern portion of the plume because we know that
22 there is contamination north of your actual plume
23 boundary. And knowing that contamination travels
24 where water travels southeast, and knowing that MUD
25 put three additional wells further north, you're

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 going to have additional pressure due east which is
2 going to effect that portion of the plume. I don't
3 see any monitoring wells. How do you plan to
4 protect yourself? How do you plan to protect me for
5 that matter?

6 MR. LEIBBERT: That's a fair
7 question, and honestly the answer is that number and
8 location of new monitoring wells going on the east
9 side is still we haven't exactly started that
10 process because we are going to do this step first.
11 And then over the wintertime we will do that, but I
12 guess as I'm talking about it, I'm focused down here
13 where most of the residential sampling takes place.
14 We're not ignoring this area. That's a fair
15 comment. We can't forget about what's going on up
16 here. We can take that into consideration, and some
17 of those wells can go up there. There is no
18 restriction.

19 MS. WAGEMAN: And I have to agree
20 with you. But see, I don't think that it's
21 something you need to take into consideration. I
22 think it's something you need to put in to protect
23 your -- fill in the blank because when MUD starts
24 pumping, hey, you need to establish your baseline
25 all over this place -- not in just some of your hot

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 spots, because what will happen when they start
2 pumping, you're going to need to know the cause and
3 effect of that entire eastern side. And if you do
4 not put you, the Corp, not MUD, put the monitoring
5 wells that you are utterly in control all along of
6 that eastern portion of that plume you have no
7 baseline. So let's say they moved the plume or you
8 find out that the plume is moved, and you go to MUD
9 and you say, Hey, you moved my plume, their response
10 is going to be prove it. And if you're not going to
11 be able to, then you're going to lose and then where
12 are you going to be?

13 MR. LEIBBERT: Well, that's a good
14 comment. We have to remember this part of the plume
15 down here. We can't be so focused down here.

16 MS. WAGEMAN: So can we write that
17 down as a question and make sure that it gets
18 answered because it needs to get addressed? Because
19 based on where those monitoring wells are, that's
20 where they need to add additional monitoring wells
21 due east and directly east of the NRD reservoir to
22 establish a solid baseline for MUD pumping activity.

23 MS. TILLMAN: That will be taken into
24 our consideration when we have to do modeling maps.

25 MR. LEIBBERT: But not so much

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 modeling, but we have a couple rounds of
2 investigation going on and we can work that in.

3 That's something that can be addressed.

4 MR. LUETKENHAUS: You said you weren't
5 in compliance on Load Line 1 there because it's
6 obviously out where you thought it was. As I look
7 at that map, it doesn't look like the last map I
8 saw, so you're also out of compliance on the ROD,
9 not only on the blueprint on the east side because
10 it has also moved because you do not have it
11 contained. How can you be out of compliance on Low
12 Line 1 and not the rest?

13 MR. LEIBBERT: Well, over here at Low
14 Line 1 there is no extraction well network in place.
15 Here, this is an extraction well in place and it's
16 been operating for five years.

17 MR. LUETKENHAUS: But it's not working.
18 You're pumping water, but you're not contained in
19 the system.

20 MS. TILLMAN: Part of what we're
21 going to do is find out more about that area and
22 make that determination. We know we're out of Low
23 Line 1. We need to do some more monitoring on the
24 south end over there. We know that's that part of
25 our whole process.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 MR. LEIBBERT: And the whole issue
2 and the whole question of containment is a big
3 question. And we know that's important and we're
4 working on that right now this year and it's on this
5 sheet on the summary page. In 2005 we're working
6 with the regulators to establish with pen and paper
7 and write that down, what does containment mean and
8 what does it require.

9 MR. LUETKENHAUS: Containing or being
10 contained.

11 Now, when I was in school you always had
12 to make a sentence with that word. Your plume
13 containment system is a total failure.

14 MS. TILLMAN: I think you have a
15 question over here.

16 MR. GUSTAFSON: And this is just a
17 point of information. You keep mentioning -- and I
18 haven't made all of these meetings so maybe
19 everybody else knows this, but you keep mentioning
20 the regulators and who are the regulators and what
21 is their responsibility relative to this?

22 MR. MARQUES: Under the law in CERCLA
23 there is federal facility agreement in place between
24 EPA, the Corps and the State of Nebraska, so our job
25 is to enforce determinations of that agreement and

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 any other applicable laws and other things relative
2 to this site.

3 MR. GUSTAFSON: So the EPA and the
4 State of Nebraska are the regulators?

5 MR. MARQUES. Correct.

6 MS. MOORER: I want to go up to the
7 map here. I think this is an excellent time for me to
8 inject a little bit of realism.

9 We've been doing a lot of talking and
10 you've been hearing a lot of discussion here or
11 things that sound like promises that we will bring
12 that back to you at the next meeting, that sort of
13 thing about additional looking into additional tests
14 on this side of the site.

15 It might be helpful for you to know a
16 little bit of the colloquy that's gone to dialogue
17 back and forth between the Corps and EPA beginning
18 in May and this has to do with the monitoring wells
19 that already exist.

20 We have an issue not only of where things
21 are tested, but how frequently things are tested. I
22 think that's a critical issue that's been sort of
23 forgotten about here. Monitoring Well 18, this a
24 back and forth between EPA. EPA in May said to the
25 Corps, We want you to monitor this well

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 semi-annually due to possibility bedrock
2 contamination. The Corps in June said, Won't do it.
3 EPA then came back in July and said we mean it. We
4 want you to do it. And the Corps came back in July
5 and said, No, they're not going to do it.

6 All right. Let me just give you a few
7 more examples. There are wells that already exist
8 and EPA which does have regulatory authority has
9 asked specifically to do things that are protective.
10 Monitoring Well 36, EPA asked in May please monitor
11 this semi-annually to evaluate possible plume
12 movement past Extraction Well No. 1. They asked for
13 semi-annual evaluation of that. The Corps came back
14 in June and said that we will not do it. They will
15 not sample semi-annually. We only will do it
16 annually. Then EPA came back in July and said, No,
17 we mean it, do it. And the Corps came back the
18 second time and said, No, we're not going to do it.
19 Let me give you another example.

20 Monitoring Well 38 which is right in this
21 area too, that is right there. EPA said, Please
22 monitor this quarterly to evaluate plume movement
23 and protect hereby resident supply. The Corps said,
24 Nope, they won't do it and they went back and forth
25 from this twice.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 Monitoring Well 46, right here. EPA said,
2 Monitor this quarterly to evaluate plume movement
3 established MUD baseline, the thing that we've just
4 been talking about, and protect residence to the
5 south. The Corps twice told them, No, we are not
6 going to do it. It's not in our plan. We are not
7 going to do this.

8 Let me give you one final example,
9 Monitoring Well 62. Okay. Right there. EPA asked
10 them to monitor this quarterly to evaluate
11 extraction Well 1 containment and recent surface
12 water detections in Clear and Johnson Creeks. And,
13 again, after back and forth twice with EPA the Corps
14 said, No, they are not going to do it.

15 So I think we need to kind of factor in
16 what the reality has been in terms of this colloquy
17 or the dialogue back and forth. I'm wondering,
18 Mr. Marques -- or is there anybody else from EPA
19 that you want to throw this to, what is EPA's plan
20 to do in response now? You do have power under
21 CERCLA, the Super Fund Law, to go in and take
22 response actions yourself.

23 And this goes to your question too,
24 Mr. Gustafson, under CERCLA, the regulators can go
25 in and take response actions on their part on things

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 that they think are considered important if they
2 can't get the responsible party like the Corps to do
3 it, and then they can go after the Corps for
4 reimbursement of those responses. That's one of the
5 realities of CERCLA.

6 I would like to know what it is the EPA is
7 going to do about what you say should be done that
8 the Corps has now at least twice told you in the
9 recent past that the Corps says, No, they're not
10 going to do it?

11 MR. MARQUES: Before we would
12 undertake a response here, I mentioned the facility
13 agreement which is basically the contract we have
14 with the Corps. There are provisions in that
15 agreement that would elevate those kinds of matters
16 up the chain and get other resolution beyond just a
17 stalemate, you say this and we say that. That
18 process hasn't been implemented. So that would be
19 the next logical step in this sequence of dialogue
20 regarding this issue.

21 MS. MOORER: Well, the basic question
22 is we've been talking about actually getting
23 something done, as Linda and Paul have said. How
24 long are you going to sit by and allow the stalemate
25 to occur? When is EPA going to step up there and

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 force some clean up to occur in the fashion you
2 say it should be done?

3 MR. MARQUES: The means by which we
4 have to compel is through the enforce mechanisms of
5 the FFA. And the first step of that process is to
6 elevate it to a dispute process.

7 MS. MOORER: When are you going to do
8 that?

9 MR. MARQUES: We are at that point
10 now.

11 MS. MOORER: Have you decided that
12 you're going to engage in the dispute process?

13 MR. MARQUES: We have been doing so.
14 That's what this process is. It hasn't been
15 formally elevated up the food chain. We were
16 supposed to have some discussions on this last week,
17 but I had to cancel so we're rescheduling those.
18 And that's the process that starts the dispute in
19 motion. If we can't reach resolution, then those
20 elements in question get elevated up the food chain
21 for a decision.

22 MS. MOORER: So EPA has made a formal
23 decision to engage in this dispute resolution
24 process --

25 MR. MARQUES: We are engaged in what

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 our agreement calls informal dispute which is the
2 first step before you elevate up the chain.

3 MS. MOORER: Have you decided as to
4 the formal dispute process?

5 MR. MARQUES: If we don't get it
6 resolved at this level in the near term, yes.

7 MS. MOORER: What is near term?

8 MR. MARQUES: Weeks.

9 MS. MOORER: Weeks. So by the next
10 RAB meeting you will tell us where you are and
11 whether or not you have engaged -- either it will be
12 resolved and they have agreed to do it or you will
13 be in the formal dispute resolution process?

14 MR. MARQUES: Yes, it will be
15 resolved or in dispute, yes.

16 MS. MOORER: Formally in dispute?

17 MR. MARQUES: Correct. And hopefully
18 by then it would have gone through the process and
19 maybe been resolved.

20 MS. MOORER: Thank you.

21 It just seems to me it's important to
22 factor that in all what has been said up to the this
23 point that the Corps has been so interested in doing
24 the right thing here. I don't know that the actual
25 evidence shows that that's true at all. And rather

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 the documents show that the Corps had continued to
2 remain steadfast in almost every important issue in
3 saying, No, we're not going to do it. We're not
4 going to expand the 1-mile buffer zone. We're not
5 going to do more frequent testing. That's the stuff
6 that really matters.

7 MS. TILLMAN: Yes. And we're working
8 through the process. (inaudible) We have some
9 technical discrepancies that we have to resolve.
10 We're in the process that we are working right now.
11 We will report out on that at the next RAB as I
12 heard that is something you would like to hear.

13 MS. MOORER: Well, I think most
14 people here from our perspective want action. We
15 don't want to hear about discussions. We want
16 action and we want it to be tested and we want to
17 see the results.

18 UNIDENTIFIED FEMALE: What technical
19 discrepancies were you referring to?

20 MS. TILLMAN: We have technical
21 discrepancies. We don't think it needs to be
22 monitored because of the direction of the flow.
23 We have to work through some of those.
24 Scott would like to see us monitor those more
25 frequently. We need to meet in the next couple of

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 weeks to talk through that process and we will
2 update the web site with status. Would that be
3 fair?

4 MS. WAGEMAN: Okay. I can always
5 count on Lynne to throw in the little surprises.
6 All of you would agree -- and I'm going be honest
7 with you right now. The only thing that's keeping
8 me from going ballistic at this point in time is the
9 fact that my daughter is in the back of this room.

10 Three months ago, Steve, you stood up over
11 there, promised things would be different, that you
12 wanted to work with us and that you wanted to be
13 proactive and every good thing came with your
14 package. So now what I'm hearing is that you guys
15 are throwing sand in the sand box because you don't
16 like the fact that the EPA, who is over you, is
17 telling you to do something and you don't want the
18 do it.

19 Well, my son -- when I tell my son to do
20 something and he doesn't want to do it, we go back
21 and forth, but it doesn't last long. He understands
22 that the longer it lasts, the angrier I get and
23 then he does it. What in the name of all that's
24 holy do you think you people are doing? Test, do
25 what the EPA tells you to do. What is so

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 unreasonable? How much does it cost? Seriously,
2 I'm literally about ready to blow here.

3 You've got some things outside the plume
4 that needs to be tested, don't want to test them,
5 don't feel it's necessary. You have some stuff
6 inside the plume for some very valid reasons, don't
7 want to test them, don't see the necessity. I don't
8 see the necessity of you having an opinion here
9 because isn't the EPA over you on this?

10 MR. LEIBBERT: So let me just say
11 that I don't think Lynne has characterized our
12 responses to the EPA very well. We have not refused
13 to sample those wells. What we are discussing with
14 the EPA is the frequency of sampling these wells.
15 We can go through every single one, one by one, but
16 we have a technical basis of all of our responses to
17 comments. When EPA asked us to do No. 18 more
18 frequently than once a year, we have a reason not to
19 do it once a year. Now, I don't have that
20 memorized, and my guess is is that our rationale was
21 that this well has had the same result for many
22 years in a row.

23 MS. WAGEMAN: Doesn't the EPA know
24 that?

25 MR. LEIBBERT: That's what we're

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 working on. That's what we're discussing. That's
2 what we're going back and forth about.

3 MS. WAGEMAN: But if the EPA knows
4 that, and they're still coming up to you and saying
5 to test it, I would assume that the EPA would have a
6 reason and a rationale behind it. They're not going
7 to just come to you and say test this.

8 MR. LEIBBERT: Were allowed to
9 disagree with EPA.

10 MS. WAGEMAN: Well, understandably
11 so, but also you're expected to respect them and
12 you're expected to adhere to what they expect out of
13 you. You guys are the responsible party here, not
14 the EPA.

15 MR. LEIBBERT: Well, and there is a
16 process for that dispute resolution. We are allowed
17 to disagree with the EPA. We are allowed to have
18 technical disagreements. We are allowed to have
19 differing technical opinions about things, and the
20 frequency of how often some of these wells get
21 sampled is something that we're in debate with EPA
22 right now. But the debate process is continuing, is
23 not yet concluded and this is not a done deal.
24 We're going to sample these wells at 18, 36 and 62
25 once a year no matter what. The question is is

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 we're going to do it more than once a year or not.
2 And right now our answer is no. We don't believe we
3 need to do that, and our resources are better spend
4 doing new monitoring wells or new investigation
5 work, use that more money wisely somewhere else. If
6 this well had been nondetect the past ten times in a
7 row, I don't need to sample it again. I need to use
8 my money somewhere else where it's more useful.

9 MS. WAGEMAN: Why would the EPA have
10 you ramp up testing on that if those have been the
11 results for so long?

12 MR. LEIBBERT: Because it's in a
13 sensitive area. There is a lot of questions. You
14 have questions, we have questions and the EPA has
15 questions. What is going on especially on this
16 eastern side, we acknowledge that, we recognize
17 that.

18 So what we're proposing for these wells
19 that have been stable, they're not changing the
20 concentrations from year to year. We're going to
21 keep doing that once a year and we are going to do
22 more investigations this year and we're going to do
23 more investigations next year and we're going to do
24 more monitoring wells and more monitoring wells next
25 year to address those questions. And we're going to

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 work on the definition of containment and work that
2 out, so it's not that we're not taking this issue
3 lightly.

4 MS. MOORER: But you keep saying no,
5 that's what matters.

6 MR. LEIBBERT: We're allowed to
7 disagree. We're allowed to have different opinions
8 than the EPA.

9 MS. MOORER: Exactly. But you are
10 the responsible party. EPA is the regulator.
11 Regulators have more power than the responsible
12 parties. And that's why I posed the question to Mr.
13 Marques and not to you. That's really where the
14 rubber meets the road. Where do you sample, how
15 frequently and what do you sample for?

16 MR. LEIBBERT: All of that is an open
17 book.

18 MS. TILLMAN: That is a deliberative
19 part of the process that we go through with those
20 comments to our approach that Scott wants us to do.
21 We have not come to the conclusion.

22 MS. MOORER: And that's where we are
23 asking Mr. Marques on behalf of EPA what steps he's
24 going to take because we know that you will continue
25 to drag your feet as long as you possibly can

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 because you want to minimize your response costs.
2 And you have continually throughout this whole
3 process denied liability. Even when for example, on
4 this business of the seven chemicals of concern
5 Mr. Marques has definitively stated you guys are
6 responsible for more than just the seven, but you
7 continue to tell all of us, no, our position is, our
8 position. The point is you're the culpable party.
9 We would like to have this cleaned up and we would
10 like to see the regulators stepping up and using
11 more leverage which they have the power to do.

12 MS. WAGEMAN: You need to understand,
13 and maybe Steve isn't aware of this and may not be
14 since some of this happened before you hopped on
15 board, but we've heard this before where the two of
16 you, the EPA and the Corps, are fitting in the sand
17 box like a bunch of children and the end result is
18 nothing gets done.

19 MR. LEIBBERT: That's not true.
20 These four wells, 18, 63, the ones that we mentioned
21 are being sampled once a year no matter. We're not
22 not doing it. We are doing it.

23 MS. WAGEMAN: I'm not talking about
24 these four wells. I'm talking about historical
25 things that didn't have to do with those four wells.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 I am being general, so I'm not going to talk to
2 these four wells. What I'm going to talk about is
3 the psychology of what I am hearing here. And all
4 of this is based on documents, cat fights, between
5 the EPA and Corps, everything from monitoring the
6 residential wells to extending the 1-mile buffer
7 zone to who is responsible for MUDs 404 permit, who is
8 going to do this and who is going to do that, I'm
9 talking about single layer multilevel. You name it,
10 we've seen it. And we see you guys getting in the
11 jello over it, and we're tired of it.

12 And so when we hear this -- when I hear
13 this, it makes me very uneasy. So how do I know
14 that what you're telling me now is different? How
15 do I know that the promises Steve made are real?

16 MS. TILLMAN: I guess I would like to
17 add that if you're talking through the concerns to the
18 EPA, would it help for us to update the web site
19 with the logic of why we don't need to sample those
20 locations because several of them are situations
21 where these are samples over the past several years
22 where we have seen nothing. We would rather apply
23 resources elsewhere. We can give you the explanation.

24 MS. WAGEMAN: There is stuff going on
25 and that there is discrepancies. I think that it's

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 only fair to the public that we know why. We don't
2 need to be versed in grave detail, but we want to
3 know why and I think we're entitled to that. This
4 is the first I have heard of this latest cat fight.

5 MS. TILLMAN: It is fairly recent.
6 We met with EPA two to three weeks ago. We will put
7 it into action and we will update the web site on
8 that. Scott may want to put something in there
9 about his rationale, and we will be meeting in the
10 next two weeks to resolve this dispute, and we will
11 culminate a final document that comes out to you all
12 and you will get to look at and see.

13 MR. LEIBBERT: So with the site
14 management plan as a whole in general, one of the
15 objectives tonight was to point out the work that is
16 being done. And it's a true statement that we're
17 doing more testing, more sampling between monitoring
18 wells and residential wells and surface water in the
19 year 2005 than we did in the year 2004, and we are
20 probably going to do more in 2006 than we did in
21 2005. So the general underlying desire for more
22 testing is and more sampling, we're trying to be
23 responsive to that. The other thing is this is a
24 major accomplishment in terms of remediating this
25 site. The ROD requires us to establish containment

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 with a pump and treat system that can treat the TCE
2 and RDX in the ground water. This is something we
3 were lacking that we have addressed and now we
4 count that as a milestone.

5 The future regarding containment on the
6 southern side and the eastern side, again, this is
7 something that everyone -- not just you guys, we
8 have known that this has been a big priority but
9 until now it had to be a priority. Now that Load
10 Line 1 is done, this is our first priority. And
11 this is where you're going to see us doing all of
12 our work and spending all our resources is on the
13 east side and southern side.

14 The next priority after that is probably
15 going to be what do we do about the rest of the

16 plume and how do we attack this inside. On thing
17 that we do right now is we have a couple of GCWs that
18 we use are kind of the pilot tests to see if the
19 technology works.

20 There is other potential technologies that
21 could be used in here in the interior of the plume
22 to try and clean these things up. That will be the
23 next thing. That will be 2007, 2008, 2009, trying
24 to figure out more about what's going on in the
25 middle, what can we do about it, is there something

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 else that needs to be done besides an extraction
2 system. Those are the questions that will be the
3 next priority after we get this containment issue
4 under control.

5 MR. LUETHENHAUS: What is your best
6 estimate for containment? And I don't necessarily
7 like your definition of containment. I like my
8 definition of containment. When is it not going to
9 move further east, south, west, north?

10 MR. LEIBBERT: We're going to be
11 looking at that every year until the end of time.

12 MR. LUETHENHAUS: What is your best
13 estimate?

14 MR. LEIBBERT: This will be done next
15 year. This should be in normal day in and day out
16 operations next spring. I would contend that there
17 is containment here because -- it's debatable, but I
18 would contend that there is no evidence that there
19 is a lack of containment down here. And over here
20 there is some controversy. There is some
21 disagreement between us and you and EPA and the State of
22 Nebraska about whether or not this is truly
23 contained. And we are going to work on that and we
24 will start this year and continue next year and
25 probably have to continue into 2007 as well to nail

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 that down, and to prove to us, to prove to you, to
2 prove to the EPA that this is working the way it's
3 supposed to. And if we do our investigations this
4 year and next year and we find out that we're not in
5 containment then we will have to develop a
6 corrective action plan. We will have to do
7 something to get back into containment. I can't
8 tell you what that is because I don't know what the
9 future holds for us, but all these statements about
10 you're the responsible party, all of that is true.
11 We will address this.

12 If we get a sampling result in 106 that's
13 above the action level that shows that this
14 depiction of the plume is not correct, we will have
15 to do something about that.

16 MS. WAGEMAN: Not above the action
17 level, if you get a detection.

18 MR. LEIBBERT: If we're wrong, we are
19 wrong, but right now we don't know we're wrong.

20 MS. WAGEMAN: But once again, TCE is
21 not found in nature. If you get a detection of that
22 stuff in Well 77, you've got a problem. Why?
23 Because that's not where the boundaries of your
24 plume area. So let's get all this terminology,
25 let's throw it out the window and let's look at this

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 situation for what it truly is.

2 It's not the issue of whether it's 1.0 or
3 1.7 because it's not going to get there in the back
4 of a cow. It's traveled somewhere and it
5 is not where you originally found it. That doesn't
6 mean it evaporated into nothing. It means it moved
7 somewhere else. It's somewhere else and you just
8 can't find it, so don't give me this action level
9 stuff.

10 MR. LEIBBERT: So in Paul's example,
11 Well 106, what happens if there is a detect there?
12 What we talked about a few moments ago, the focus

13 was on additional follow on residential well
14 sampling as a result of that finding. The other
15 piece of the puzzle is what are you going to do
16 about it? How are you going to contain it? How are
17 you going to clean it up? And those questions have
18 to be answered as well.

19 When we manage the site, we look at two
20 things. We look at preventing human exposure as
21 Priority 1 and then remediating the contamination.
22 The first thing we would do is sample 106 again,
23 sample it more frequently and then to carry that
24 thought to the next step is we probably have to do
25 some more investigation to find out where it's

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 coming from. As you're indicating, where is it
2 coming from? How far has it gone? Is it moving
3 fast? Is it moving slow? If we see something out
4 here that's unusual, that's different than what
5 we've seen in the past and we know this is no longer
6 accurate, we will have to act on that and we will
7 have to talk about how to contain it. We will have
8 to talk about what is necessary to get back in
9 containment. How do you clean up this part of the
10 plume that currently might be covered? So all those
11 things will happen in the future if the results
12 dictate that.

13 MS. WAGEMAN: And I think that's
14 great, but there are a couple of things here.
15 Definition -- defining your project area. So if
16 you've got a hit in 106 of 1.7, you know you have a
17 hit at 1.7, and the action level was 5. Then my
18 question to you would be immediately if I were your
19 project manager, which I wish to God I were, I would
20 say, Okay, we have 1.7 here.

21 Now, what we need to do is we need to feel
22 it out and find out where the intensity is and we
23 need to do that right away before environmental or
24 circumstances change because coming back two months
25 from now and do a retest is ridiculous. It needs to

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 be done immediately once we got the results. So
2 then that leads to the question of how long does it
3 take for us to get the results back.

4 In situations where you have sensitive
5 areas that might want to be honestly something you
6 might want to look at is your response time from the
7 time that you sent that stuff out to the lab to the
8 time that you get it back to allow you the
9 opportunity to be proactively define that area
10 quickly. Because if you're at 1.7, if I were your PM, I
11 would say we need to radius this out and find out
12 exactly what is going on until we hit and then find
13 the magic number to try to characterize that number
14 because coming back two months later is pointless.

15 MR. MCREYNOLDS: Well, it's moved
16 across the road on County Road 5 and now it's above
17 the detection. It's a pig farm out there. There's
18 an Artesian Well that was tested and it went above
19 the level, so that shows it's out of your plume.

20 MR. LEIBBERT: That's in the plume.
21 This is the Artesian well that is part of our normal
22 sampling well.

23 MR. MCREYNOLDS: Yeah, but it went up
24 from what it was before.

25 MS. MOORER: Right. It was tested 5

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 for TCE in March. And Mr. Marques asked you what
2 you were planning to do with respect to providing
3 alternate water or something.

4 MR. MARQUES: I asked that question
5 because I didn't realize it wasn't a supply well.

6 MR. LEIBBERT: Nobody drinks that.

7 MS. MOORER: It's in the water supply
8 well list, so did you offer it to anybody?

9 MR. LEIBBERT: The Artesian well is
10 included in the water supply sampling list and it's
11 not used for domestic or portable use.

12 MS. MOORER: The question is did you
13 offer it to anybody, let them know you have an
14 action level reading here? Did you assure that
15 nobody consumes the water that comes out of that?
16 Did you confirm with the land owner that nobody
17 consumes that water?

18 MR. LEIBBERT: Yes.

19 MS. MOORER: When did you do that,
20 roughly?

21 MR. LEIBBERT: We sent the results to
22 all the landowners, and yes we asked that question,
23 what do you use that for? And the answer is it's
24 not used for domestic use.

25 MS. MOORER: I have a question both

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 about containment, but before we get past it, I want
2 to talk about Load Line 1 just moment.

3 You said maybe about seven minutes ago now
4 that Load Line 1 is done, what do you mean Load Line 1
5 is done?

6 MR. LEIBBERT: Well, the construction
7 of this treatment system is already underway, and
8 the system will be operational close to the end of
9 the year, maybe into the first few months of 2006,
10 where that extraction system will be under normal
11 operations. So once that normal operation begins,
12 we can shift our focus over here to east and
13 southern sides.

14 MS. MOORER: Okay. Thank you. Does
15 your Load Line 1 remedial design address the
16 contamination south of EW12 and EW13 that is not
17 captured by these two wells?

18 MR. LEIBBERT: That's something
19 that's subject to debate. The captured zone of 12
20 and 13 do extend to the south and it can pull ground
21 water from the downgradient side backwards into the
22 extraction well. That radius of influence extends a
23 certain distance, and I don't know that certain
24 distance. It extends a certain distance in a
25 downgraded direction. What you're talking about is

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 that contamination was a signal hit out of 41
2 samples that was collected at that time, part of
3 which were nondetectable below the action level
4 except for one.

5 MS. MOORER: Well, I am following in
6 a certain respect that NDEQ made in April in this
7 year saying that the TCE plume maybe south of Silver
8 Creek and a monitoring well may need to be installed
9 because of that. My question is what have you
10 responded to NDEQ with respect to that issued they
11 raised?

12 MR. LEIBBERT: We installed
13 monitoring wells 79, 80, 81 and 83 in this vicinity
14 here.

15 MS. MOORER: Is it south of Silver
16 Creek?

17 MR. LEIBBERT: No.

18 MS. MOORER: So that does not seem to
19 be responsive to the issue that NDEQ raised?

20 MR. LEIBBERT: Those wells will tell
21 us whether or not there is any contamination outside
22 of the radius of influence of extraction Wells 12
23 and 13.

24 MS. MOORER: What well?

25 MR. LEIBBERT: The monitoring well

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 79, 80, 81 and 83 will help judge that whether or
2 not there is contamination outside the radius of
3 influence of extraction well 12 and 13.

4 MS. MOORER: And then what? If it
5 shows you there is contamination then that will tell
6 you that you're not done with with Load Line 1?

7 MR. LEIBBERT: If we find something
8 that's not being captured, we will act on that, yes.

9 MR. LUETKENHAUS: Did you discuss their
10 performance criteria on Load Line 1 and why you do
11 not want it?

12 MR. LEIBBERT: I'm not sure what
13 you're asking.

14 MR. LUETKENHAUS: Well, the way I
15 understand it is you're going to put this treatment
16 system in, and if it works, fine. If it doesn't
17 work, you don't want to hear about it. You don't
18 want to be judged in other words of how good of a
19 job you did?

20 MS. MOORER: That's correct. That's
21 right out of one of your own documents.

22 MR. LEIBBERT: Well, I'm not sure I'm
23 following the question exactly, but there is several
24 things going on down here with the remedial system
25 with Extraction Well 12 and 13 in terms of is this

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 system working correctly.

2 The first thing -- the easiest thing to
3 measure is the water coming out of the treatment
4 system clean enough to discharge according to our
5 state permit. So we have a way to sample that
6 treated water and make sure that it complies with
7 our purpose. So that's one way judging whether or
8 not the treatment system is operating correctly.

9 The other way we look at the treatment
10 system and decide if it's operating correctly is
11 this question of containment. Are you preventing
12 the migration of contamination from here to here.
13 Have we successfully stopped its migration. And the
14 way we do that is we use monitoring wells and we use
15 observation wells and we collect hydraulic
16 measurements as well as analytical results.

17 So if we sample these wells down here that
18 are downgradient of the extraction wells system and
19 they don't know any contamination above action
20 level, that's one indicator that this system is
21 performing correctly. We will also take hydraulic
22 measurements. If the hydraulic measurements are in
23 accordance with the criteria defined in our
24 containment requirements, that's another indication
25 that the treatment system is operating correctly.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 So there is several different standards that were
2 being held to that we have to demonstrate compliance
3 with. They are all a little bit different and they
4 all work together to show that system is working or
5 no this system is not working.

6 MR. LUETKENHAUS: We were told the very
7 same thing on the rest of the plume until last
8 February when you said no we don't have it contained
9 anymore. This is why you don't want performance
10 criteria in Load Line 1, correct?

11 MR. LEIBBERT: I think what we said
12 in February is I don't recall. I don't agree with
13 that.

14 MR. LUETKENHAUS: You don't. Is that
15 map the same as the one 3 years ago? You only have
16 11 square miles of plume containment now? That's
17 what you originally had.

18 MR. LEIBBERT: Well, I haven't tried
19 to measure it myself. Do you think it's not 11
20 anymore?

21 MR. LUETKENHAUS: I would guess it's
22 probably gained a few pounds.

23 MS. TILLMAN: Well, that's always
24 possible.

25 MR. LEIBBERT: Where did 11 come

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 from?

2 MR. LUETKENHAUS: That was the figure I
3 was given by the Corps of Engineers.

4 MR. LEIBBERT: All right. All you
5 have to do is do the math. You measure this area
6 and this area and you add it up. It adds up to 11
7 square miles?

8 MR. LUETKENHAUS: Right. We have heard
9 this story before.

10 MS. TILLMAN: More of the point is we
11 recognize the Load Line 1 (inaudible) on the rest of
12 that monitoring wells in there so that we can
13 demonstrate because we don't have a sufficient
14 network right now but we want to be able to
15 demonstrate that. (inaudible) We want to do that.
16 We want to get these monitoring wells and learn more
17 about that.

18 MR. LUETKENHAUS: Sounds very good, but
19 we have heard the same story and same songs.

20 MS. TILLMAN: We have it in our plan
21 to install those wells. (inaudible) Do you remember
22 the one that shows the crosshatching in the southern part of that that
23 caused questions, and we will show what we think
24 changed. (inaudible)

25 MR. LEIBBERT: I know what you're

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 saying about it. I think that some of the old maps
2 had the plume drawn just as this and that's it,
3 without any of this.

4 MS. WAGEMAN: And then over on the
5 eastern side of Load Line 1 it did not cross, either
6 Monitoring Well 28 or 29, right there. Go to the
7 east. It was in just a little bit, so it actually
8 moved out west, and then the southern part was
9 actually a little higher up because the western
10 portion of that wasn't as deep, and that's longer
11 than it was before, so it's bigger.

12 MS. TILLMAN: Jason, would it be
13 worthwhile to explain how you came up with that map?
14 We recognize you have a question about how we are
15 showing different plumes on the maps. We have ECC
16 draw this and maybe touch upon that a little bit and
17 explain why it's maybe a little bit different.

18 MR. LEIBBERT: I think I'm following
19 now. The questions are how has this depiction
20 changed over time and what are some of those
21 changes. This one is a big change. We were wrong
22 about this plume over here and this reflects our
23 current understanding. So from 1997 ROD to this
24 map here, that's the big change. Either 28 or 29, I
25 can't remember which one, these used to be below

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 action level and it is now above action level. So
2 we've moved over to encompass this one.

3 MS. FUNK: Basically they all
4 dropped south, right? (inaudible)

5 MR. LEIBBERT: Yeah, over here.

6 MS. FUNK: My question is you
7 allowed in this '97 ROD when the RAB law was
8 accomplished and obviously things have changed. So is
9 it unreasonable to ask MUD to do another model with the
10 current plume remediation?

11 MR. LEIBBERT: No, I don't think
12 that's unreasonable, and I think that's what MUD
13 will start using in their subsequent reports.

14 MS. WAGEMAN: They will require them
15 to use the current -- because they did specifically
16 request from you in writing multiple times and
17 updated plume map, and somewhere behind closed doors it
18 was decided that it was okay to use the original ROD
19 map which is not okay. And so when they went
20 in and they did their ground water model, you guys
21 weren't properly represented and then when they
22 brought that to your attention, I don't remember if
23 it was the Corps or if it was Lisa that stated,
24 Well, it wouldn't change things that much. That was
25 the response according to our tapes that we

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 got. I just hope going forward for the sake of your
2 plan, that's not going to happen any more that you
3 guys stay true to your responsibility and to hell
4 with MUD, you have your own stuff.

5 MR. LEIBBERT: Well, in terms of MUD
6 using an out-of-date map, that's something that can
7 be corrected. In terms of establishing a baseline,
8 being able to or having a monitoring network in
9 place that's capable of seeing changes as a result
10 of MUD, that is going to be our new priority like
11 we've talked about. That's almost -- it's not done
12 yet, but it's almost taken care of so our focus can
13 shift away from there to over here. And the
14 comments about live up to your responsibility, hold
15 MUD accountable, establish baselines so you know
16 what's happening, we take those very seriously and there
17 are big impacts that go along with that. In 2006
18 it's going to be a year of monitoring wells.

19 MS. MOORER: Mr. Leibbert, you were
20 a part of the meeting that occurred April 5th
21 regarding MUD's models and there were representative
22 from a whole bunch of agencies there and you were
23 one of them. And the meeting minutes reflect that
24 EPA again raised the issue regarding what plume
25 location is used in the modeling analyses. And the

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 U.S. Army Corps in Omaha stated that the Kansas City
2 District has directed MUD's use of plume location as
3 previously identified in the 1997 ROD as the
4 standard. I'm reading from the notes here.

5 MUD expressed that their position that
6 establishing the current plume location is the
7 Kansas City District's responsibility and not MUD's.
8 However, they will use the latest and best
9 information provided to them.

10 Now this is the part I want to ask you
11 about. Until that occurs, the next phase of the
12 modeling effort will be based upon the location of
13 the plume identified in the '97 ROD site. If U.S.
14 Army Corps decides MUD must use a different plum
15 boundary, then MUD needs a letter from the Kansas
16 City District through the Omaha District to MUD so
17 directing them and a map showing the detailed
18 location that should be used. So have you provided
19 that direction through the Omaha District to MUD
20 including the map?

21 MR. LEIBBERT: No, not yet.

22 MS. MOORER: Are you going to do it?

23 MR. LEIBBERT: Yes.

24 MS. MOORER: When? We need to put
25 that up as a question.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 MR. LEIBBERT: Well, we need to give
2 MUD an updated plume map before they produce their
3 next modeling report. I honestly don't know when
4 MUD is going to produce their next modeling report.

5 MS. WAGEMAN: We're not requesting
6 this. You need to take the word request out. MUD,
7 you must request of them in written form --

8 MS. MOORER: And apparently the Omaha
9 District is going along with --

10 MS. RIEDEL: Can you guys please
11 speak one at a time. Our transcriptionist can not
12 remember everyone's name. Everyone is speaking
13 over. We have had issues about questions, comments,
14 statements not being recorded. We're trying to do
15 this. Can you please respect that. I feel bad for
16 our transcriptionist. She is not going to get this
17 as accurate as she can get it. Thank you.

18 MS. WAGEMAN: You need to change to
19 word should to must, and then an updated plume map
20 and directed use that updated map within their next
21 ground water model.

22 MS. MOORER: This says it's coming
23 out in October of this year. These meeting minutes
24 say when the next MUD minutes is coming up.

25 MS. TILLMAN: Okay. We will take a
THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 five-minute break.

2 (9:00 p.m. - Recess taken.)

3 MR. MARQUES: I just wanted to
4 announce that we're going to have a public meeting
5 to -- a kick-off, if you will, to announce the work
6 that the university is going to be doing at the
7 site, and that meeting will be on September 15th at
8 the Agricultural Research Center, ARDC Facility.
9 The start time will be 6 to 8. So that will be
10 announced in the newspapers and we should see that
11 in all the local papers. Do you want to make it 7?
12 We will make it 7 to 9. It will be in the papers,
13 all the papers.

14 MS. TILLMAN: I think there is one
15 question about the Artesian Well.

16 MR. LEIBBERT: About the Artesian
17 well, and when that was sampled. It was sampled in
18 December and I have the result letter from that. It
19 was sampled in March. It was sampled in June and
20 the findings are in December. It was 4 parts per
21 billion TCE. Somebody said it was 5 again in March
22 and then in June it was 5 again.

23 MS. MOORER: What about RDX?

24 MR. LEIBBERT: 2.2 in December, and
25 March or January results I don't have in front of

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 me.

2 MR. LUETKENHAUS: Will you be providing
3 a new -- the latest map to MUD for their water
4 model?

5 MR. LEIBBERT: Yes.

6 MR. LUETKENHAUS: Very soon?

7 MR. LEIBBERT: Yes.

8 MS. TILLMAN: Jason, do you have more
9 of your presentation to get through and then you can
10 open it up for your input for the whole plan. You
11 can continue asking questions but we want to hear
12 the whole plan. Do you have more that you would
13 like to relate?

14 MR. LEIBBERT: The first objective
15 tonight was to try to show and articulate the
16 different things that we're going to do the
17 remainder of this year, 2006 and 2007. We talked a
18 little bit about this. My second objective tonight,
19 which I'm still interested -- I still want to get to
20 even though we are running over time. One of the
21 things we've talked about of the things that are on
22 the handouts, especially those major elements, is
23 there something else that needs to be done at this
24 site? Is there some other piece of work that should
25 be done here that isn't included in what we've

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 talked about? We didn't spend a lot of time on
2 every single one of those major elements, but the
3 idea is to get feedback from the community.

4 We think we know what we need to do and we
5 will continue to work with the regulators, but we
6 want some feedback from the community about these
7 major elements and about the activities that are
8 scheduled this year, next year and the year after
9 that. So I know it's a lot to absorb. I don't want
10 you to feel like you have to give us comments
11 immediately on the spot, but take these handouts and
12 in December we can talk about this again.

13 We will have what we think is our final
14 plan in December, so if you have further thoughts on
15 this above what we've already talked about, send
16 those in to us so that we can get them worked into
17 the plan between now and December.

18 MS. KRAMER: Jason, as you're working
19 on No. 6, if there is anyway that you can have
20 somebody from your public affairs office work with
21 you on your community relations plans, that needs to
22 be enhanced. It's old.

23 MR. LEIBBERT: Okay.

24 MS. MOORER: I think that it would be
25 fair to say that any time there is an opportunity

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 offered to you, definitely take it to provide
2 comment to MUD or anything related to what the plans
3 are that they have put out there. For example, did
4 anybody provide comment regarding MUD sampling and
5 analysis plan for ground water monitoring and wells
6 near the Metropolitans Utilities Districts Platte
7 River, West Well Field near Wann, Nebraska. This is
8 dated April 2005. They sent it out and solicited
9 comments. Has Corps provided comments, and then I
10 want to know if EPA provided comments. And is there
11 anybody from NDEQ here? No.

12 They said we provided these comments that
13 you have and this is where it shows that they have
14 located where they plan to locate six monitoring
15 wells for now. They changed the locations of those
16 monitoring wells, that became clear. Has either the
17 Kansas City Corps and/or EPA provided comments on
18 this?

19 MR. LEIBBERT: No, we have not
20 commented on that document.

21 MS. MOORER: Is there a reason why?
22 This is a golden opportunity.

23 MR. LEIBBERT: You're showing it to
24 me for the first time.

25 MS. MOORER: You have never seen this

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 before? Mr. Marques?

2 MR. MARQUES: It wasn't submitted to
3 EPA to my knowledge, but I could be wrong.

4 MS. MOORER: All right. Well, it is
5 out there. This was Kevin Tobin to Rodney Schwartz,
6 please provide any comments that you have -- and I
7 got this from NDEQ's files, so obviously NDEQ has
8 it. And normally NDEQ doesn't get it, the EPA
9 doesn't get it. Anyway, this is one example of a
10 golden opportunity that there needs to be comments
11 provided on that.

12 MS. TILLMAN: We will ask them about
13 that and put that on the list up there to check with
14 Omaha Corps about. Do we have a name of document?

15 MS. MOORER: This is prepared by the
16 USGS, apparently as a contractor for MUD. But it's
17 called, Sampling and Analysis Plan for Ground Water
18 Monitoring of Wells Near the Metropolitan Utilities
19 Districts Platte River, West Well Field Near Wann,
20 Nebraska. The date on this is April 2005. And this
21 was sent by Kevin Tobin of MUD to Rodney Schwartz
22 and obviously to NDEQ because that's where I got it
23 out of NDEQ's file. It's April 19th of 2005.

24 The other thing is this is an obvious
25 example. The other thing is we ask that you look

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 for opportunities even if they haven't offered it to
2 you on a platter to weigh in on the validity of
3 their plans.

4 MR. GUSTAFSEN: And I was wondering,
5 the eastern side of this problem is getting very
6 close to the Platte River Valley. And the Platte
7 River, I would guess that it's a sandier, the ground
8 subsoil or whatever you want to call is sandier, and
9 so I would also assume that the water will move much
10 quicker. Once it gets to that point, has anyone
11 done any analysis of what will happen if that edge
12 is not contained and how much faster it will move?
13 And if not, I would recommend that that's something
14 else that may be part of your plan?

15 MR. LEIBBERT: Let me try. I'm not a
16 hydrogeologist. I'm an engineer by training, and
17 there is a significant hydrogeologic feature over
18 here on the eastern side, and that's the division
19 between the Todd Valley and the Platte Valley, and
20 that is quite significant. It does affect how
21 ground water moves through this area and
22 contamination is transported through this area.

23 I may have to ask for help in terms of
24 more specifics than that. That geologic feature is
25 included in our model, and when we do our model, we

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 try to predict where this stuff is going to go, how
2 fast is it going to go, do our containment wells
3 have adequate capture to prevent it from migrating
4 further than what it has already. So I guess the
5 general question about the Platte Valley and how
6 does that affect contaminant transport, that is
7 something that we pay attention to, look at, include
8 in our model because it is such a significant
9 geologic feature.

10 I don't know how fast -- the second part
11 of your question was how does that -- when something
12 moves into the Platte Valley, how does that change
13 its transport. Does it move faster or slower? I
14 don't know the specifics, but we can look into that
15 and we can talk about that some more. But yes, the
16 division between the Todd Valley and the Platte
17 Valley is very significant, and it is something
18 that's documented by others by USGS and others and
19 that's something we will include when we do our
20 model.

21 MS. TILLMAN: Does that answer your
22 question?

23 MR. GUSTAFSEN: I would be curious as
24 to how fast it moves once it gets to the Platte.
25 This all relates back to the MUD and the possibility

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 of pulling it that way. And then if my assumptions
2 are correct it moves much quicker, that would make
3 your job significantly more difficult.

4 MR. LEIBBERT: The other thing that I
5 can say is I know is that the MUD model also
6 includes that geologic feature, that division
7 between the Todd and the Platte. It's a real thing
8 that they've included in their model as well. But
9 when they do their simulations and they do their
10 predictions about how fast things are going to move
11 and how much drawn out you're going to have, that's
12 taken into account.

13 MS. TILLMAN: And we captured it up
14 on the screen. We will get that out on the 15th.

15 MR. LUETKENHAUS: On the eastern edge,
16 it might be Well 14 or 18, the NRD Lake, or maybe
17 it's 41. Right by the lake there is a dam there?

18 MR. LEIBBERT: Fifty-four.

19 MR. LUETKENHAUS: Yeah. Right in there
20 there is mustard gas in there. Now, is there going
21 to be a big argument when somebody digs that out
22 about who is responsible for that?

23 MR. LEIBBERT: Let me start by
24 saying, me, Jason, I don't know what those reports
25 say about mustard gas, about explosives. There is

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 other people here that do.

2 MR. ANDERSON: Originally back in
3 1994 we started a new unit called OU3 which
4 specifically addressed the area around the NRD
5 impoundment. Because we did have some information
6 that there may or may not have been some type of
7 chemical type of substance -- some type of military
8 chemical, something buried in the landfill near the
9 impoundment, and there is another story of somebody
10 uncovering something none of which were fully
11 substantiated. But we took it seriously enough
12 that we launched an investigation around that
13 landfill, and if the substance was in fact some type
14 of mustard agent, there are certain degradation
15 products. As mustard gas breaks down, it turns into
16 other compounds. So there is no direct test for
17 mustard gas, but you can test for if products it
18 breaks down in to.

19 So we did take many ground water samples
20 around the landfill to check the presence of that
21 breakdown product, and over, several years of
22 testing nothing showed up that would indicate that
23 there is any kind of chemical weapon-type substance
24 buried in the landfill. The short of completely
25 excavating the landfill top to bottom, there is no

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 other way to disprove absolute certainty of that.

2 But we're fairly confident there is nothing buried
3 there.

4 MS. MOORER: What were the years that
5 you carried out this investigation, from when to
6 when?

7 MR. ANDERSON: The field
8 investigation was about 1995 until about '96 or '97
9 is when we did all the investigation. The RI report
10 has been since approved and it's in the repository,
11 so we can check the date on that.

12 MR. RANDAZZO: So why is it in the
13 University of Nebraska clean up that they are doing?
14 You're saying it's not there?

15 MR. ANDERSON: I can't specifically
16 address the University of Nebraska. I will turn
17 that over to Scott. There may or may not have been
18 other things that may or may not have been buried in
19 the landfill that were not the responsibility or the
20 department defense.

21 MR. MARQUES: Mustard gas is not a
22 part of the University's clean up.

23 MR. RANDAZZO: It was mentioned in
24 their report. Why would it be mentioned in that
25 report?

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 MR. MARQUES: Are you talking about
2 the Tech Law Report-

3 MR. RANDAZZO: Yes.

4 MR. MARQUES: There is discussion, I
5 guess, of the potential for mustard in that area.
6 It's not something the University would be
7 responsible to remediate.

8 MR. RANDAZZO: I have not read it
9 yet, so I just saw it in there.

10 MR. MARQUES: Okay. If there was
11 mustard gas or mustard agent buried, it would be the
12 responsibility of DOD. And what Garth is saying
13 that there is sampling done of the ground water of
14 these products and they weren't detected, and I
15 think there is more discussion of this in the
16 recurring review report on ordinance. And I'm not
17 sure that's in the repository or not.

18 MS. TILLMAN: Any more questions?

19 MS. MOORER: Could somebody from the
20 Corps encapsulate what you have done to update your
21 ground water model RDGM4, because obviously the
22 MUD's position at this point is that they've got no
23 responsibility for the NOP site in their model.

24 MR. LEIBBERT: Do you have some of
25 the comments and responses? Is that what you're

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 reading from?

2 MS. MOORER: Do I need to tell you
3 what you've already said to jog your memory?

4 MR. LEIBBERT: Well, kind of yeah.
5 Because in May 6, I'm not sure where we were exactly.
6 Let me say there are some outstanding comments and
7 EPA and NDEQ about our model RDGM4, that we used to help us
8 manage this site. A lot of those comments came from
9 Dr. Zurbuchen NDEQ, some of them we again didn't agree with
10 completely, and we talked about those in letters
11 between us and the regulators and we know that there
12 is some work that we need to do in the model.

13 One of the biggest comments from
14 Dr. Zurbuchen was, I don't think you have enough
15 hydraulic activity at this site, and you need to go
16 out and collect more hydraulic activity data and
17 feed it into your model to make it a better model.

18 So one good way of addressing that is when
19 we installed Wells 12 and 13, we'll pump test those
20 wells which means we pump them at the maximum rate
21 they can sustain and we collect measurements and we
22 see what kind of draw down those wells generate, and
23 then that helps us calculate a hydraulic activity
24 for that area. This is an area in the model that
25 Dr. Zurbuchen has questions about about not having the

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 hydraulic activity, so we're going to do that. I'm
2 trying to remember some of the other comments that
3 are outstanding. There is a few things.

4 One of the letters I think maybe you had
5 an maybe you don't, we laid that out in our response
6 back to EPA and NDEQ in the next version of the
7 model which is already underway, and it's something
8 that we will be doing again in 2006 to complete that
9 updated model. We laid out what those comments are
10 and how we are going to address those.

11 MS. MOORER: Well, all right. In the
12 letter May 6th, 2005 to Mr. Marques and Ms.
13 Kemling, Mr. McFarland stated that -- summarized a
14 few of the issues that had been raised, and he said
15 that the current Load Line 1 remedial designed used
16 the RDGM model with the following updates and it
17 goes through a little list here. All right. And it
18 says the Kansas City Corps acknowledges that the
19 current ground water model does not incorporate the
20 complete list of suggestions made by NDEQ and EPA.

21 My basic question is not to test your
22 memory. It is to find out what's documented, what can
23 we look at, what changes you have made. At the end
24 of this letter Mr. McFarland says, if NWK believes
25 this is important in order to allow public access to

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 the documents -- which is something you may recall I
2 have asked about previously specifically. He says
3 specifically the RDGM4 document and September 2004
4 investigation report will be finalized with the
5 addition of several change pages and these final
6 documents will be entered into the information
7 repository. Well, as of August 26th, they are not
8 going to put information in the repository. We
9 would like to know where these are and we would like
10 to have something that encapsulates where you are
11 now.

12 The other thing is you said you were going
13 to update this in December. You told us that the
14 last meeting that the next version of this will be
15 either December or early 2006. Are you now changing
16 the dates on that? That is a full-fledged
17 addressing of all of the NDEQ's and EPA's comments
18 and concerns?

19 MR. LEIBBERT: Are you talking about
20 the updated ground water model?

21 MS. MOORER: That's right. When are
22 you planning to address all of those? What is your
23 time frame? When will we see a document that
24 addresses that?

25 MR. LEIBBERT: Well, we have

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 responded to those comments. There are comments
2 where we don't completely agree with. And the next
3 report that we'll publish about our model and the
4 updates we've made to the model will come sometime
5 in 2006.

6 MS. MOORER: Can you be more
7 specific, like early 2006?

8 MR. LEIBBERT: I don't know have that
9 scheduled right now.

10 MS. MOORER: All right. Well, at the
11 minimum, will you assure that what's promised by
12 Mr. McFarland is put into the information
13 repository -- this partial update is put into the
14 information repository as promised?

15 MR. LEIBBERT: Yes.

16 MS. MOORER: Thank you.

17 MS. TILLMAN: We will add that to the
18 list in January according to the May 6th letter from
19 Bill McFarland.

20 More questions?

21 MR. DISCERNA *sp?*: And I live right
22 by the (inaudible) field and if that contaminated
23 water ever gets down in that Platte River bottom,
24 it's going to move fast because I'm watching MUD put that pipe
25 in and it's about 8 feet there. And when they're

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 putting it into the sand, they have to have
2 dewatering wells in there to keep the water out
3 while putting in the pipe. So you can bet your
4 bottom dollar that if that contaminated plume ever
5 gets down to the Platte River bottom, it's going to
6 move fast and it's going to be into that well.

7 MS. TILLMAN: Did you have a
8 questions in regards to that?

9 MR. DISCERNA *sp?*: No, I just wanted
10 to make that comment.

11 MS. MOORER: I have one last concern.
12 This I could have put in before when Lorus was
13 talking about containment, but I think it is
14 critical.

15 Here this evening you have basically
16 acknowledged the site is not in containment. You
17 have also essentially acknowledged that you haven't
18 established a method to evaluate the containment.
19 Your documents also say this.

20 For example, in your July 29th, 2005 Corps
21 response to the EPA comments, you talk about when a
22 working definition can be established, and EPA made
23 a comment: There is no containment evaluation and
24 on your time line you have a planned activity for
25 2007 to complete your containment evaluation, so

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 it's pretty well established. You don't even have a
2 definition of containment.

3 Now, in light of that, I'm still very
4 concerned that you all continue to flee fast and are
5 loose with the truth. In a letter to an Ashland
6 area resident in June, asked to have her domestic
7 water supply sampled. This is the reply that
8 Mr. McFarland sent. It says, The Kansas City has
9 delineated the extent of ground water contamination
10 at the site. By the way, this is a denial letter
11 saying we're not going to test your well. Also it
12 says, It is important to note that a containment
13 system is in place to capture site-related ground
14 water contamination to prevent this contamination
15 and prevent this contamination from extending from
16 the current extraction well system. While we
17 continually verify that the containment system is
18 working effectively, current data do no lead to
19 the conclusion that your well is in danger of being
20 impacted. I would say that is highly misleading.

21 That gives the impression to an ordinary
22 person who is not schooled in the mendacious art of
23 bureaucratic double-speak to say not only is there no
24 problem, but we've got a containment system and we
25 have verified that this works well enough to be able

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 to say this site is contained. But in reality you
2 haven't even defined containment. I would like to
3 have an explanation of why this information was put
4 in this letter. This is to an Ashland area
5 residence. The date of the letter is June 3rd.

6 This, Mr. Iverson, is a prime example of
7 why there continues to be a real large problem with
8 the Corps credibility. At the one hand you haven't
9 even defined containment, yet you put this sort of
10 gobble-gook in a letter that intentionally misleads
11 as to what you actually know and don't know about
12 this site. And I will give you a copy of this
13 letter if you need to have it.

14 MR. IVERSON: I would say that we did
15 not intentionally mislead you. Essentially, we feel
16 that we do have containment. We know that there is
17 issues out there. To take that and twist that into
18 something that we are lying to people, misleading
19 people is really misleading in itself.

20 MS. MOORER: Was this letter not sent
21 intentionally? Did Mr. McFarland put this letter
22 together under duress? Did someone force him to
23 write this?

24 MR. IVERSON: No. I think he was
25 stating that we have a containment system in place.

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 MS. MOORER: Mr. Marques has said
2 there is no containment evaluation.

3 MR. IVERSON: There is a difference
4 between containment evaluation and containment
5 system in place.

6 MR. MARQUES: The context in that was
7 the context of a broader statement, so I wouldn't
8 take that one statement out of context.

9 MS. MOORER: Well, do you have a
10 containment system that assures that all the
11 contamination is actually contained? And are you
12 able to verify that at this point? What you have
13 been telling us all this evening and what all the
14 documents show is no, you don't. Are you now
15 telling us that you do?

16 MS. TILLMAN: What we're telling you
17 is we knew on Load Line 1 we did not have
18 containment. We think on the remainder of the plume
19 that we have evidence including the buffer zones
20 sampling that's been conducted. Our line of
21 containment at the plume is probably about where
22 it's at. That does not mean, however, that we know
23 exactly because we don't have enough wells out
24 there. You have to have wells every 100 feet or
25 200 feet, and I'm not that technical. We have more

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 to learn. We will always be verifying that we have
2 containment, but right now we think we have a decent
3 containment system out there over the plume, and it
4 may vary over time. And our monitoring wells may
5 show over time, but we don't feel as uncomfortable
6 there as we did at Load Line 1.

7 Obviously we missed it at Load Line 1, so
8 it is not our intent by any means to mischaracterize
9 to anybody that we don't have containment out there.
10 We just have to continue to work on watching that
11 containment, going through the process of analyzing
12 it, evaluating it and then adjusting it as we need
13 to. That's what we're trying to portray in the
14 letter. Right now we don't see any glaring issues.

15 MS. MOORER: Well, Loris, what do
16 you think? If they haven't each defined containment
17 yet --

18 MR. LUETKENHAUS: If we had a map of
19 when you started your water wells and you
20 super-imposed it on this map here, you're telling me
21 that this map here is not larger than that one would
22 be?

23 MS. TILLMAN: No, I'm not saying that
24 at all.

25 MR. LUETKENHAUS: Then you don't have

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 it contained because that was the idea of those
2 wells was to contain the plume, so it's not
3 contained. Don't lie to us.

4 MR. MARQUES: This should, over time
5 -- this plume should have been, in here, in here and
6 in here, and ultimately this has to expand. That's
7 the idea with this system. It's going to pull.
8 There is nothing to stop this until it gets to the
9 red dots. And if you look at the data, you will
10 find -- I can't remember if it's 6 or 7, but the
11 concentrations, they are going up in those wells and
12 they are going to continue to go up. So this is
13 supposed to come this way, and if you looked at the
14 ROD, you will see more of a gap here. But there is
15 no reason to expect that this wouldn't move here.
16 That's what is supposed to be happening, so this
17 will expand.

18 But the bottom line containment is --
19 containment is you can draw a line like this and
20 there is no RDX above 2 south of that line, and then
21 when you get into the -- there is two components.
22 There is a chemical component of containment which
23 is no RDX above 2 south of this line. And then you
24 have enough monitoring to verify that, which we
25 don't Chemically, and that's part of what has to

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 happen.

2 The other component is the hydraulic part
3 which speaks to RDX and 1.5 here which is a typical
4 chemical breach. But it speaks to a potentially
5 hydraulic breach or a leak in the system that you want
6 to know and understand and be able to manage.
7 Because what's happening is what's here at EW5 now,
8 maybe this would show no detect but it may be
9 nothing, but over time, EW5 is going to have 5, 10,
10 20 parts per billion RDX. And then if we have this
11 hydraulic containment that we now can identify, then
12 we start to have a problem at these concentrations
13 if they increase, and this 1.5 had the potential to
14 be more than 1.5.

15 MR. LUETKENHAUS: You hadn't front
16 loaded west by putting them farther away from the
17 plume edge. If you put the extraction well right on
18 the very plume edge as it was and not move them
19 farther south or southeast, where would that plume
20 be now?

21 MR. MARQUES: If the line was here
22 and we put the wells right on top of it and the
23 wells line, then the line wouldn't move.

24 MR. LUETKENHAUS: The wells haven't
25 been working is the whole thing and only at a

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 percentage of --

2 MR. MARQUES: No, if this line -- if
3 the two-part RDX line was here and we put the well
4 here, that baby is going to come on down to the
5 highway, and that's what happened. So that doesn't
6 say that the wells aren't working, it's just saying
7 that that's how the system was designed and built.

8 MR. LUETKENHAUS: We're getting
9 guaranteed that it's going to stop to the red dots?

10 MR. MARQUES: The idea is to put all
11 the measures in place to ensure that that can be,
12 one, reliably evaluated, and two, happen. That's
13 what's supposed to happen.

14 MR. LUETKENHAUS: Okay. Thank you.

15 MR. LEIBBERT: And that's what we
16 want to and that's what we're working on this year
17 and next year is something that we can put on paper
18 and hold up in front of you and the rest of the
19 world and say this is how we are going to measure
20 containment from now on. And we have to meet
21 Criteria No. 1, Criteria No. 2 and Criteria No. 3.
22 If we don't meet any of those, then we are not in
23 containment. That right now doesn't exist. There
24 isn't anything on payer that says this is what you
25 must do in order to have containment. That's what

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 we're working on. Us and the regulators have
2 identified that as a deficiency, as a problem that
3 we're working to address.

4 MS. MOORER: I notice that the Corps
5 has said several times that you consider that
6 Johnson Creek and Clear Creek are not potable water
7 sources. That is they are nonpotable water
8 sources. I'm wondering, Mr. Marques, do you agree
9 with that? Do you agree that Johnson and Clear
10 Creeks are nonpotable water sources?

11 MR. MARQUES: I'm not aware of
12 anybody drinking surface water -- water supply.

13 MS. MOORER: So you would agree? Is
14 that your position, you accept that at this point
15 from the Corps?

16 MR. MARQUES: My position is I'm not
17 aware of anybody of the water supply that's supplied
18 by Johnson and Clear Creek.

19 MS. MOORER: You don't have any
20 information to the contrary, that is, you don't have
21 any information that would be contrary to the Corps'
22 position?

23 MR. MARQUES: I do not.

24 MS. MOORER: All right. On one of
25 your comments that you've gone back and forth on,

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 you talk about you do not agree that the TCE
2 standard that they applied is being appropriately
3 applied.

4 MR. MARQUES: Okay.

5 MS. MOORER: Could you explain more
6 what that means? You say suggest that the OU3
7 surface water risk assessment be re-evaluated and that
8 site specific screen criteria for surface water be
9 redeveloped. You may recall at the last meeting
10 Sue Brauckmuller asked the question, is it safe for
11 my dog or my cow to drink out of these surface
12 waters when there isn't a standard developed for
13 RDX?

14 MR. MARQUES: What we talked about at
15 the last meeting was relative to RDX surface water.

16 MS. MOORER: Exactly. And I want you
17 to explain, if you can, your comment here about the
18 TCE standard as well as following up on what is your
19 view on whether it's safe for the animals to drink
20 when there isn't a standard developed for the
21 surface water.

22 MR. MARQUES: As far as drinking
23 water standards for surface water, the drinking
24 water for RDX, the sources are relevant, and I don't
25 believe we have RDX above 2 in surface water which

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 is what we talked about last time. So would there
2 be other exposure routes in streams? Drinking water
3 standard is based on drinking two liters of water
4 every day for 350 days a year. So if the standard
5 for exposure at RDX and surface water at two, which
6 I think I said at the last meeting, would likely be
7 protective on a risk basis. So if we don't have RDX
8 above two on surface water, I would not anticipate
9 that we would have an unacceptable risk due to RDX
10 surface water.

11 MS. MOORER: What about the other
12 exposures because that's what we're being asked
13 about?

14 MR. MARQUES: I don't recall. HMX,
15 the standard I believe is 400 parts per billion.

16 MS. MOORER: The issue is, is it safe
17 for your animals to drink out of this surface water?

18 MR. MARQUES: And what I'm saying is
19 if there is no RDX above 2 and no HMX about 400,
20 it's probably safe to drink.

21 MS. MOORER: All right.

22 MR. MARQUES: Relative to TCE, the
23 genesis of the comment that you read, there was some
24 discussion as to whether it would be appropriate to
25 allow discharge of TCE and the surface water up to

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 810 parts per billion, which I believe is the
2 Nebraska Ambient Water Quality Criteria. And I think
3 that that standard is based on protection of aquatic
4 life.

5 And so the question - and it was a
6 question, was what's the basis for the 810, and how
7 does that compare to our risk basis and our exposure
8 to say that we're in the previous OU3 risk
9 assessment? And so the operative discharge criteria for the
10 treatment plan for TCE is 5. And I believe this
11 question came about because there was some question
12 at the Load Line 1 wells whether the water that was
13 going to be coming out of those during the pump test
14 was going to need treatment prior to discharge.
15 Does that sound right, Jason? And so I think that,
16 I believe, the issue has been addressed that the
17 Corps is going to treat that water. Is that what I
18 saw?

19 MR. LEIBBERT: When you install
20 wells, you have to pump them and it's part of the
21 well development process. Normally you can put that
22 pump water right back on the ground. This
23 comment -- the issue is, is that the right thing to
24 do? What standard should be applied? Do you use
25 the drinking water standards? Do you use the state

1 defined surface water criteria? The answer so far
2 is that all these monitoring wells that have been
3 installed down there, all the water that was
4 generated during that well drilling was
5 containerized and taken over the treatment plan.
6 That's what's happening so far.

7 MR. MARQUES: The bottom line of the
8 question is, what should be the appropriate to
9 discharge criteria that has been rendered moot. It has
10 not been a question of whether it's appropriate to
11 discharge above 5 or 810, not water that's been
12 addressed otherwise and treated properly.

13 MS. MOORER: So then has the Corps
14 agreed to run all the waste water like that through
15 the treatment plan? That I thought was still an
16 issue.

17 MR. LEIBBERT: Well, we're going to
18 install lots of monitoring wells at the site in the
19 near future and probably in the long future as well.
20 Every time we drill a well, we're going to make a
21 little bit of water. Does all of that water have to
22 be containerized and taken to the treatment plan?
23 Our position right now is no. When we put wells
24 down here in areas that we're all reasonably sure
25 are not contaminated above action levels, we're not

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 going to containerize that water. That's in the
2 clean area.

3 The wells that go in areas of no
4 contamination where we know that ground water is
5 already contaminated and we're putting a well there,

6 we will containerize that and take it to the
7 treatment plan.

8 MS. MOORER: All right. I would like
9 to follow up, let me specifically tell you what it
10 is and you can follow up with this question. This
11 is from the July 29th, 2005 response of comments,
12 and this refers to the specific comments 8 and 9
13 under reply to comment responses on ground water,
14 (inaudible) water sampling plant part two, field
15 sampling plant, because it's talking about
16 (inaudible) contamination and decontamination water
17 as well as purge water. Those are the two things
18 that those comments are talking about. And EPA says
19 there is new NDEQ guidance that requires looking
20 into it farther, and the Corps response is, No,
21 we're not going to do it. There is no evidence that
22 says -- there is no data or historical information
23 to indicate ground water can be reasonably expected
24 to contain concentrations of RDX or TCE at levels that would
25 constitute hazardous wastes. However, one of your

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 meeting notes had Mr. Perford from NDEQ say,
2 Contrary, there is no evidence to show it will not
3 be hazardous. So that's where I would like to
4 follow up on, where we are on the resolution of
5 that?

6 MR. MARQUES: I don't know how we can
7 follow up. Hazardous waste is different. Hazardous
8 waste is a under RCRA, and those levels have
9 to be really, really high. So the likelihood of
10 this being hazardous waste is pretty low.

11 MS. MOORER: All I'm doing is
12 following with what NDEQ's response was. I'm not
13 saying it's hazardous wastes.

14 MR. MARQUES: Okay. I'm just
15 clarifying follow up on discussion that was had on
16 that subject, and I think that is a pretty clear
17 understanding that we're not likely to be dealing
18 with hazardous waste in terms of that water
19 associated with the development of the wells at Low
20 Line 1. The possibility of there being something
21 above 5 parts per billion, I think there is some
22 possibility of that. And I think the bigger issue
23 dealt with not so much the well drilling as much as
24 the pump testing where there would be hundreds of
25 thousands of gallons of water associated with pump
THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 tests. So that gets into a much bigger issue than
2 well development in terms of volume of water and so
3 on.

4 MS. MOORER: I'm referring to the
5 investigative derived wastes. That's what you all
6 have been referring to, and your May 20th Program
7 Manager Meeting notes has Mr. Perford saying, There
8 is insufficient evidence to exclude the possibility
9 that ground water concentration in the area are not
10 present at hazardous levels. That's what I'm
11 talking about. It goes through recommendations,
12 containerize, test or summarize current
13 concentrations of TCE in ground water, so that's
14 what I'm asking about. It does not appear to be
15 resolved. The latest thing on these comment appears
16 to be an impasse.

17 MR. LEIBBERT: So when we install
18 Extraction Well 12 and 13, one of the things that we
19 will do as part of that installation process is to
20 pump test those wells. And what that means is we
21 pump those wells at their maximum capacity for a
22 period times, I think 72 hours. We vary the pump
23 rate. During that 72 hours, we collect hydraulic
24 measurements, and like you talked about before, that
25 helps us calculate the draw down, the radius of

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 influence, it helps us calculate hydraulic activity.
2 It's the standard well installation and testing
3 procedure. So our resolution to this whole issue is
4 that when we pump test those wells, we will wait
5 until the treatment plant is operational so that all
6 that water generated during that pump test, which is
7 on the order of millions of gallons, can be treated.

8 MS. MOORER: Does this relate only to
9 Load Line 1? Wouldn't this pertain to anywhere on the
10 site?

11 MR. LEIBBERT: The comments that
12 you're referring to pertain to Load Line 1, yes.

13 MS. MOORER: Okay.

14 MS. TILLMAN: We're approaching
15 10:00. I have a feeling that Linda has more
16 questions.

17 MS. MOORER: No. I have given up.
18 I'm hoping that you will answer them this evening.
19 It's also time's up. Enough is enough.

20 MS. TILLMAN: Okay. Before we close,
21 would anybody else like to ask a last question?
22 Okay.

23 I want to thank you all for your patience
24 for doing this and for the transcriptionist, and
25 thank you for coming. Look for our web site,

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037

1 please.

2 (9:58 p.m. - Adjournment.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

THOMAS & THOMAS COURT REPORTERS & CERTIFIED LEGAL VIDEO, LLC
(402) 556-5000 (402) 556-2037